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Illinois Register

Rules of Governmental Agencies

Volume 23, Issue 40 — October 01, 1999

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JOINT COMMITTEE ON ADMINISTRATIVE RULES

Second Notices Received12005

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Editor's Note: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are as follows:

April 16, 1999 - Issue 16: Through	March 31, 1999
July 16, 1999 - Issue 29: Through	June 30, 1999
October 15, 1999 - Issue 42: Through	September 30, 1999
January 21, 2000 - Issue 3: Through	December 31, 1999 (Annual)

INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

REGISTER PUBLICATION SCHEDULE 1999

Issue #	Copy Due by 4:30 p.m.	Publication Date	Issue #	Copy Due by 4:30 p.m.	Publication Date
Issue 1	December 21, 1998	January 4, 1999 *	Issue 28	June 28	July 9
Issue 2	December 28	January 8	Issue 29	July 6 ***	July 16
Issue 3	January 4, 1999	January 15	Issue 30	July 12	July 23
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Issue 25	June 7	June 18	Issue 51	December 13	December 24
Issue 26	June 14	June 25	Issue 52	December 20	December 31
Issue 27	June 21	July 2	Issue 1	December 27	January 7, 2000

* Monday following a state holiday.

** Tuesday following a state holiday.

*** Since the state holiday is a Monday, the deadline is Noon on Tuesday.

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

1) Heading of the Part: Pay Telephone Providers

2) Code Citation: 83 Ill. Adm. Code 771

<u>Section Numbers:</u>	<u>Proposed Action:</u>
771.100	New Section
771.110	New Section
771.200	New Section
771.210	New Section
771.220	New Section
771.230	New Section
771.300	New Section
771.400	New Section
771.500	New Section
771.505	New Section
771.510	New Section
771.515	New Section
771.520	New Section
771.600	New Section
771.700	New Section
771.800	New Section

4) Statutory Authority: Implementing Section 8-301 and authorized by Section 10-101 of the Public Utilities Act (220 ILCS 5/8-301 and 10-101).

5) A Complete Description of the Subjects and Issues Involved: These proposed rules are applicable to those telecommunications carriers providing pay telephone service and will provide structure for the entry of carriers, set up minimum operational standards, and set standards for rates.

6) Will these proposed rules replace emergency rules currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed rules contain incorporations by reference? No

9) Are there any other proposed rules pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed rules neither create nor expand any State mandate on units of local government, school districts, or community college districts.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments should be filed with:

Donna M. Caton
Chief Clerk

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

Illinois Commerce Commission
527 East Capitol Avenue
P.O. Box 19280
Springfield IL 62794-9280
217/782-5669

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: These proposed rules will affect those telecommunications carriers that offer pay telephone services that are also small businesses as defined in the Illinois Administrative Procedure Act.

B) Reporting, bookkeeping or other procedures required for compliance: Filing requirements

C) Types of professional skills necessary for compliance: Managerial skills

13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Rules begins on the next page:

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER f: TELEPHONE UTILITIESPART 771
PAY TELEPHONE PROVIDERS

SUBPART A: GENERAL PROVISIONS

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771.100 Applicability
771.110 Definitions

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771.200 Certification Requirements
771.210 Filing Requirements
771.220 Certified Access Line Provider's Maintenance of Records
771.230 Responsibilities of the Certificated Pay Telephone Provider

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771.300 Standardized Notice to the Public

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771.400 9-1-1 Emergency Pay Telephone Requirements

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Section
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771.515 Other Features
771.520 Miscellaneous Provisions

SUBPART F: RATES

Section
771.600 LEC Tariffs for Pay Telephone Providers

SUBPART G: REFUNDS

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ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

771.700 Refunds to Users of Pay Telephones for Public Use

SUBPART H: VIOLATIONS

Section
771.800 Notice Procedures

AUTHORITY: Implementing Section 8-301 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/8-301 and 10-101].

SOURCE: Adopted at 23 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 771.100 Applicability

a) This Part shall apply to any telecommunications carrier, as defined in Section 13-202 of the Public Utilities Act [220 ILCS 5/13-202], providing pay telephone service.

b) This Part does not apply to pay telephone provider's provision of "private" or "private use" pay telephones in that the telecommunications services offered by these pay telephones are not for public use. Pay telephones in locations where the telephone is available to a limited group such as family, club members, employees, or patrons are not for public use under the Act, including, but not limited to, the locations described below:

- 1) Those areas of mental health facilities as defined in Section 1-114 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/1-114] or developmental disability facilities as defined in Section 1-107 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/1-107] that are not accessible to the public;
 - 2) Those areas of correctional institutions or facilities as defined in Section 3-1-2 of the Unified Code of Corrections [730 ILCS 5/3-1-2], county jails and detention centers, or any detention facility operated by a unit of local government that are not accessible to the public; and
 - 3) Those indoor areas of banking establishments, restaurants, bars, taverns, retail stores, barbershops, beauty shops, grocery stores, department stores, movie houses, hospitals, doctors' offices, gas stations, and factories.
- c) Providers of pay telephones who locate pay telephones in locations accessible to or used by a large number of the public are telecommunications carriers within the meaning of Section 13-202 of the Act. Pay telephones in the following locations are deemed to be "public" or "for public use": transportation centers and terminals, stadiums, exposition centers, toll service areas, public streets and

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roads, parks, public areas of shopping malls and shopping centers, hotel lobbies, all telephones located outdoors (except those located on the property of a private club), roadside oases and rest areas, amusement parks, municipal and government buildings, grounds and associated areas, and military establishments.

Section 771.110 Definitions

"9-1-1 system" means the geographic area that has been granted an order of authority by the Commission to use "9-1-1" as the primary emergency telephone number.

"9-1-1 System Management" - The Emergency Telephone System Board (ETSB) that provides for the management and operation of a 9-1-1 system within the scope of such duties and powers as are prescribed by the Emergency Telephone System Act [50 ILCS 750]. If no ETSB is established, then those persons given the authority to operate the 9-1-1 system by the local public agencies.

"Act" means the Public Utilities Act [220 ILCS 5].

"Basic pay telephone service access line" means an exchange access line used for the provision of pay telephone service.

"Billed number screening" means an entry into a line information database that indicates that certain incoming calls are not accepted by the pay telephone line.

"Certificated access line provider" means a local exchange carrier or a telecommunications carrier certified to provide switched local exchange telecommunications service pursuant to Sections 13-404 or 13-405 of the Act [220 ILCS 5/13-404 or 13-405] and providing an access line to a pay telephone provider for connection to the public switched telephone network.

"Coin access line" means an exchange access line equipped for touch-tone signaling, incoming and outgoing screening, and network coin rating and related coin signaling functions.

"Commission" means the Illinois Commerce Commission.

"LEC" means local exchange carrier, a telecommunications carrier providing local exchange telecommunications as defined in Section 13-204 of the Act [220 ILCS 5/13-204].

"Operator-assisted service" means any service using live operator or automated operator functions for the handling of telephone service, such as collect calls, third number billing, calling card and prepaid

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card services.

"Operator service provider" or "OSP" means every telecommunications carrier that provides operator-assisted services that assist callers in the placement or charging of a call, either through live intervention or automated intervention.

"Pay telephone" means any coin, coinless, credit card reader telephone, provided that the end user pays or arranges to pay for exchange and interexchange intramsa and intermsa calls from such instrument on an individual call basis.

"TTP" means text telephone, a device that employs graphic or Braille communication in the transmission of coded signal through a wire or radio communication system.

SUBPART B: CERTIFICATE OF SERVICE AUTHORITY

Section 771.200 Certification Requirements

Providers of pay telephone service that are providing the resale of either local exchange or interexchange telecommunications service for public use must first obtain a Certificate of Service Authority pursuant to Section 13-403, 13-404, or 13-405 of the Act, as appropriate.

Section 771.210 Filing Requirements

- a) An applicant must file a verified original and three copies of the application for a Certificate of Service Authority with the Chief Clerk of the Commission in accordance with 83 Ill. Adm. Code 200.
- b) The application for certification must include the following:
 - 1) Applicant's business name, address and telephone number;
 - 2) Designated agent's name and address, if different from applicant's;
 - 3) Financial statement and balance sheet that lists assets and liabilities;
 - 4) The type of business knowledge and experience possessed by the applicant;
 - 5) Affirmation that the applicant has reviewed the rules in this Part that pertain to the provision of pay telephone services; and
 - 6) Method of compliance with Section 771.300, Standardized Notice to the Public.

Section 771.220 Certified Access Line Provider's Maintenance of Records

Each certificated access line provider shall maintain a database that includes, at a minimum, the following information regarding services provided to

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

certificated and non-certificated pay telephone providers:

- a) The telephone number and demarcation point or location of each pay telephone line; and
- b) The billed party's name, address and telephone number.

Section 771.230 Responsibilities of the Certificated Pay Telephone Provider

- a) The certificated pay telephone provider shall be responsible for compliance with this Part.
- b) The certificated pay telephone provider shall be the billed party.
- c) The certificated pay telephone provider shall provide one copy of its certificate to each certificated access line provider with which it intends to transact business.

SUBPART C: NOTICE

Section 771.300 Standardized Notice to the Public

All public use pay telephones shall have the following features:

- a) An informational message by voice recording at no charge or by visual display in, on, or adjacent to each pay telephone explaining:
 - 1) The general operation of the pay telephone;
 - 2) Dialing instructions for obtaining emergency assistance;
 - 3) Identification of 9-1-1 as the primary emergency telephone number to be used when dialing from pay telephones in an authorized 9-1-1 system;
 - 4) Dialing instructions for operator services and director assistance;
 - 5) Instructions on how to use any TT equipment supplied by the pay telephone provider;
 - 6) The blocking of incoming calls if the telephone will not accept incoming calls; and
 - 7) Any maximum duration of incoming calls.
- b) Visually displayed informational messages providing the following notices must be in 9 point type or 7 point type, if bilingual:
 - 1) The pay telephone provider's name, a mailing address and the telephone number that will enable the caller to contact the pay telephone provider 24 hours a day minimally with the provision of a voice response unit;
 - 2) The procedure used to report service problems or to request a credit or refund, if the pay telephone provider contract is different from that provided pursuant to subsection (b)(1), and
 - 3) The identity of any OSPs to which the pay telephone is presubscribed.
- c) Pay telephones located in areas served by a basic 9-1-1 system shall include the pay telephone location, either by a specific street address or descriptive location. The presence and accuracy of the information shall be confirmed by the pay telephone provider once per

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year and that confirmation shall be deemed to be in compliance with this Section.

- d) If separate TT numbers apply to the requirements listed in subsections (a) and (b) of this Section, then those numbers shall also be posted on the pay telephone.
- e) All certificated pay telephone providers shall comply with the notice requirements of this Subpart C by May 1, 2000.

SUBPART D: EMERGENCY TELEPHONE SYSTEM

Section 771.400 9-1-1 Emergency Pay Telephone Requirements

a) Certificated access line providers shall:

- 1) At the time of access line subscription, advise the pay telephone provider whether the access lines provided are located in an area with 9-1-1 service and, if so, advise the pay telephone provider that it must comply with all relevant 9-1-1 requirements and, upon request, provide the pay telephone provider with a 9-1-1 System Management contact;
 - 2) At least 30 days prior to the conversion to a 9-1-1 system of any area not previously offering 9-1-1 service, notify each pay telephone provider then purchasing access lines from a certificated access line provider within the area of the pending conversion; and
 - 3) In case of pay telephone equipment malfunction, provide the billed party's telephone number associated with the malfunctioning pay telephone to the Commission or 9-1-1 System Management, upon their request.
- b) The pay telephone provider must provide the 9-1-1 System Management with the pay telephone number, a point of contact for the pay telephone provider and a specific street address or descriptive location for each pay telephone in that designated area on a proprietary basis.
- c) All 9-1-1 telephone calls shall be directed to the network as dialed.
- d) All pay telephone providers shall provide current emergency number information for police, fire, and emergency medical services to their presubscribed operator service providers who, in turn, shall have that information readily accessible.
- e) Pay telephones connected through line concentrators shall be compliant with the requirements of the Emergency Telephone System Act [50 ILCS 750/15.6] applicable to private business switch service.
- f) The placard or informational message on the pay telephone must comply with the requirements in Section 771.300.

SUBPART E: OPERATIONAL REQUIREMENTS

Section 771.500 Pay Telephone Access Line Service

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All pay telephone equipment shall be connected to the public network by way of a basic pay telephone service access line or by a coin access line provided by a certificated access line provider. Such basic telephone service access line or coin access line shall be capable of accommodating outgoing calls of unlimited duration.

Section 771.505 Compliance with Federal Rules

All certificated pay telephone providers shall ensure that pay telephone equipment connected to a basic pay telephone service access line complies with all applicable rules of the Federal Communications Commission (FCC).

Section 771.510 Touch-Tone Capability

In areas where Touch-Tone capability is available from the serving central office, Touch-Tone signaling shall be provided to pay telephones.

Section 771.515 Other Features

All pay telephones for public use shall have the following minimum features:

- a) They shall have the ability to access "O" Operator (O-minus) without prior insertion of coins or credit card;
- b) They shall comply with all applicable federal statutes or State rules concerning the use of pay telephones by disabled persons, such as those who utilize wheel chairs or those who are hearing or sight disabled; and
- c) They shall have the ability to complete both basic exchange and interexchange intramsa and intermsa calls (upon payment of applicable charges).

Section 771.520 Miscellaneous Provisions

- a) Operator assisted services offered from pay telephones shall be provided by operator service providers or pay telephone providers that have obtained a Certificate of Service Authority from the Commission.
- b) Pay telephones for public use shall provide access to the customer's interexchange carrier of choice as set forth by the Commission in 83 Ill. Adm. Code 770.
- c) Billed number screening service shall be made available by certificated access line providers on all basic pay telephone access lines.
- d) No telecommunications carrier shall charge a pay telephone provider for a call originating from a pay telephone for which the caller pays a per-call or per-time-interval charge that is greater than, or in addition to, the charge for transmission of the call unless the pay telephone provider has subscribed to the provision of those calls from the pay telephone provider's pay telephones. If calls are billed in error, the telecommunications carrier shall provide appropriate

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adjustments or refunds. A pay telephone provider's access line provider shall be permitted to block calls, without charge, from pay telephones for which the pay telephone provider has not subscribed to those calls.

- e) Pay telephone providers shall have the option of not presubscribing to a primary interexchange carrier.
- f) Pay telephones for public use may be connected through line concentrators.

SUBPART F: RATES

Section 771.600 LEC Tariffs for Pay Telephone Providers

LECs must file tariffs for basic pay telephone services and any unbundled features the LEC provides to their own pay telephone service. Rates for these services shall be set according to the Federal Communications Commission's new services test pursuant to the Computer Inquiry III (CC Docket 90-263) guidelines in effect on January 1, 1999 (47 CFR 61.49(g)(2)). The tariffed rates for these services must be:

- a) cost based;
- b) consistent with the requirements of Section 276 of the Communications Act of 1934 as amended by the Telecommunications Act of 1996, 47 USC 276; and
- c) without preference or discrimination in favor of the LEC's pay telephone service.

SUBPART G: REFUNDS

Section 771.700 Refunds to Users of Pay Telephones for Public Use

- a) No pay telephone provider shall knowingly charge for uncompleted calls or charge a rate other than as provided in the tariffs as may be applicable.
- b) If the customer has paid for an uncompleted call or has been overcharged, a refund shall be made with interest from the date of overpayment by the customer. The rate of interest shall be the rate as established by the Commission to be paid on deposits in 83 Ill. Adm. Code 735.120(h)(1).

SUBPART H: VIOLATIONS

Section 771.800 Notice Procedures

- a) Upon receipt of a complaint of a violation of this Part, the Commission may initiate a proceeding to revoke the Certificate of Service Authority of a pay telephone provider alleged to be in violation of this Part or may initiate a proceeding to terminate service to a pay telephone alleged to be in violation of this Part.

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

- b) A copy of the Commission's initiating order in either proceeding shall be served on the designated agent of the pay telephone provider. The Commission shall set the matter for hearing within 30 days after its order. The procedures for a hearing to review alleged violations shall follow 83 Ill. Adm. Code 200, "Rules of Practice".
- c) The Commission shall issue its final order within 90 days after the order initiating the proceeding. Certified copies of the order shall be served on the designated agent for the pay telephone provider.
- d) A certificated access line provider shall terminate service to the pay telephone that is found to be in violation of this Part within 14 days after the entry of the Commission's final order.

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: General Grant Programs
- 2) Code Citation: 23 Ill. Adm. Code 1001
- 3) Section Numbers:

1001.10	Proposed Action:
1001.20	New Section
1001.30	New Section
1001.40	New Section
1001.50	New Section
- 4) Statutory Authority: Implementing and authorized by Sections 9.05, 9.09 and 9.17 of the Board of Higher Education Act [110 ILCS 205/9.05, 9.09 and 9.17].
- 5) A Complete Description of the Subjects and Issues Involved: The purpose of the proposed rule is to provide consistent procedures for the administration and allocation of appropriations made to the Board of Higher Education for purposes authorized solely by the language contained in the appropriation. In some instances, both the grant recipient and the purpose are specified. These are designated grants. In other instances, the appropriation language specifies the recipient but not the purpose. Several such appropriations were made to the Board of Higher Education for fiscal year 2000. To expedite the allocation of these funds, emergency rules also are being adopted.

- 6) Will these proposed amendments replace Emergency Rules currently in effect? Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed Amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These proposed amendments neither create nor expand any state mandate on units of local government.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be directed to the following person within 45 days of the date of this publication:

Carolyn Lorton, Associate Director
 Illinois Board of Higher Education
 431 East Adams, Second Floor
 Springfield, Illinois 62701
 217/557-7343 o: lorton@ibhe.state.il.us

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED RULES

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Public universities, community colleges, independent colleges and universities and educational entities who are recipients of appropriations made to the Board of Higher Education.

B) Reporting, bookkeeping or other procedures required for compliance: Minimum bookkeeping and reporting requirements.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized. This rulemaking was not included on either of the two most recent agendas because: appropriations had not been identified at that time.

The full text of the Proposed Rules is identical to the Emergency Rules published in this issue of the Illinois Register on page 11384.

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: State Matching Grant Program

2) Code Citation: 23 Ill. Adm. Code 1038

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1038.10	Amendment
1038.20	Amendment
1038.30	Amendment
1038.40	Amendment
1038.50	Amendment
1038.60	Amendment
1038.70	Amendment

4) Statutory Authority: Implementing and authorized by Section 9.26 of the Board of Higher Education Act [110 ILCS 205/9.26].

5) A Complete Description of the Subjects and Issues Involved: The proposed amendments will improve the application and administration procedures for the program and simplify the basis for allocation of funds. A provision is included for the allocation of any funds remaining after institutions have submitted their lists of funded projects to match their allocation.

6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed amendments neither create nor expand any state mandate on units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be directed to the following person within 45 days of the date of this publication:

Carolyn Lorton, Associate Director
Illinois Board of Higher Education
431 East Adams, Second Floor
Springfield, Illinois 62701
217/557-7343 or clorton@ibhe.state.il.us

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: These proposed amendments will affect public

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED AMENDMENT

universities, community colleges and independent colleges and universities that are eligible for grants under this program.

B) Reporting, bookkeeping or other procedures required for compliance: Basic bookkeeping and reporting requirements.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: a decision had not been made to make any changes in the rules.

The full text of the Proposed Amendment begins on the next page:

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER II: BOARD OF HIGHER EDUCATION

PART 1038
STATE MATCHING GRANT PROGRAM

Section	Purpose
1038.10	Definitions
1038.20	Project Eligibility Criteria
1038.30	Funding Formula
1038.40	Application Requirements
1038.50	Use of Grant Funds
1038.60	Conditions and Administrative Responsibilities
1038.70	

for-Determination-of-Grant-Funds-Allocation

AUTHORITY: Implementing and authorized by Section 9.26 of the Board of Higher Education Act [110 ILCS 205/9.26].

SOURCE: Adopted at 23 Ill. Reg. 2747, effective February 17, 1999; amended at 23 Ill. Reg. _____, effective _____.

Section 1038.10 Purpose

The purpose of this Part is to provide for the distribution of matching grants to Illinois institutions of higher education as incentives in the competition for external grants and contracts. Grants will be made to stimulate increased federal and corporate research funds and to improve the research capabilities of those institutions. [110 ILCS 205/9.26]

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1038.20 Definitions

a) "Applied research" means systematic study and investigation undertaken to discover the applications and uses of knowledge and principles in actual work or in solving problems.

"Award eligibility period" means the 12-month period ending April 30 of the grant period.

b) "Basic research" means systematic study and investigation undertaken to discover new knowledge and establish facts or principles.

c) "Board" means the Illinois Board of Higher Education.

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d) "Expenditure period" means the two-year period beginning on the first day of the grant period.

e) "Grant funds" means dollars appropriated by the State of Illinois to be used in support of the State Matching Grant Program.

f) "Grant period" means the State of Illinois fiscal year for which grant funds are appropriated.

g) "Institution" means an Illinois public university or community college, or not-for-profit degree-granting independent college or university.

h) "Matched-project" means a sponsored research project for which an award was paid to the institution by an external sponsor during the matching period for which the institution made a required matching contribution, and which meets the project eligibility criteria set forth in Section 1038.30.

i) "Matching contribution" is the institution's resource commitment to a sponsored research project as required by the terms of the agreement between the institution and the project sponsor. Matching contributions shall not include the contributed effort of project investigators and shall be limited to institutionally-provided direct costs separately budgeted and accounted for as the institution's contribution to the research project.

j) "Matching period" means the State state of Illinois fiscal year two years prior to the grant period immediately preceding the state of Illinois fiscal year for which grant funds are appropriated.

"OMB Circular A-133 Audit Report" means an audit conducted according to the United States Office of Management and Budget Circular A-133.

k) "Sponsor" means an entity, other than the State state of Illinois, the applicant institution, or any consortium in which the institution is a member, that provides primary financial support for research project activities.

l) "Supported project" means a sponsored research project for which an award is formally committed to by an external sponsor, for which the receipt of sponsored research grant funding requires an institutional matching contribution, that meets the criteria set forth in Section 1038.30, and for which grant funds will be allocated to meet all or part of the matching contribution during the expenditure period. Multi-year projects may be submitted for only one year at a time, but may be re-submitted annually during the life of the project if the project sponsor is required to make a re-determination each year that

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the institution is eligible for grant funding.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1038.30 Project Eligibility Criteria

Eligible projects shall meet the following criteria: to be eligible for inclusion as a matched project in the grant application or as a supported project for which grant funds will be used.

- a) The project is a research project and is described by the sponsor as a research project.
- b) The research project is awarded grant funds through an open and competitive process of merit review.
- c) Matching funds are required by the sponsor under the terms of the award or the award is conditioned on a match as a determination of institutional commitment.
- d) The institution is committed to provide a specified matching contribution and shall provide funding for any portion of the matching contribution not covered by the State Matching Grant Program.
- e) Projects must be basic research or applied research activities.
- f) Such activities as training of personnel, workforce training or development, curricular research or development, clinical trials, or building construction or renovation (except for renovation costs incurred in support of an eligible project) are shall be only incidental to the basic research or applied research activities.
- g) Research projects for which the State state of Illinois has provided a specific grant or appropriation are ineligible for matching funds under this grant program. However, research projects for which State Matching Grant Program grants or other state funds were used as matching contributions during the matching period are eligible for inclusion as a matched project in establishing the subsequent year's allocation base.
- h) The results of the sponsored research project must be available to the public or to the sponsoring governmental agency. Research projects may not support private, non-governmental, or for-profit research activities.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1038.40 Funding Formula

State Matching Grant Program grant funds shall be allocated to each participating institution based on the institution's expenditures as contained in the institution's U.S. Office of Management and Budget Circular A-133. Audit Schedule of Expenditures of Federal Awards, less the following: student financial aid and funds provided to a subawardee, or as a pass-through of

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Federal award expenditures. Individual institutional allocations shall be based on the institution's proportional share of the total expenditures received during the matching period for all institutions submitting grant applications. It shall be the responsibility of the institution to provide a list of required deductions, total-sponsored-grant-funding-for-eligible-matched projects-received-during-the-matching-period-as-a-proportion-of-the-total sponsor-grant-funding-for-matched-projects-received-during-the-matching-period for-all-institutions-submitting-grant-applications--in-this-formula--funds provided-to-any-third-party-as-a-subawardee-are-to-be-excluded.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1038.50 Application Requirements for--Determination-of--Grant--Funds Allocation

- a) The Board shall notify in writing the chief executive officer of every institution in the State of Illinois of the availability of grant funds not less than 45 days before the deadline for submission of applications.
- b) Applications must be completed on forms prescribed by the Board.
- c) Grant funds applications shall contain, at a minimum:
 - 1) For each matched project, the following information:
 - A) project title;
 - B) copy of official award notification;
 - C) total grant funding and grant funding received during the matching period (less grant funds provided to a subgrantee during the matching period); and
 - B) a description of specific institutional matching requirements and matching contributions expended during the matching period.
 - 2) A copy of the institution's U.S. Office of Management and Budget (USOMB) A-133, Audit Schedule of Expenditures of Federal Awards, for the matching period.
 - 3) Certification by the chief executive officer of the institution that:
 - A) research projects and matching contributions listed in the application comply with this Part;
 - B) the institution will provide a program specific audit as required by this Part;
 - C) the institution will comply with this Part and applicable State and federal statutes;
 - D) the institution will refund to the Board of Higher Education the prorated amount of grant funds for supported matched projects for which funding is not received, for which matching or grant funds are not properly expended, or for which the institution is deemed ineligible; and
 - E) the institution will provide such additional information

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requested by the Board or external evaluators as necessary to administer this program.

d) Application information may be obtained from, and applications shall be submitted to:

State Matching Grant Program
 Illinois Board of Higher Education
 431 East Adams, Second Floor
 4 West Old Capitol Plaza, Room 500
 Springfield, Illinois 62701-1418
 217/557-7377 702-7104

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1038.60 Use of Grant Funds

- a) State Matching Grant Program grant funds may be used only for:
 - 1) All or part of the institution's required matching contribution during the grant expenditure period for eligible supported sponsored research projects for which the institution receives formal notification of the awarding of sponsor research funds during the award eligibility grant period.
 - 2) Audit of grant funds.
 - b) The Board will distribute grant funds to institutions based on:
 - 1) The institution's allocation of grant funds as determined in Section 1038.40, one-half of which will be distributed to grant recipients at the time of allocation.
 - 2) Not later than May 1 of the grant year, each institution receiving a grant shall submit to the Board the remainder of the institution's allocation after the Board receives a request for the distribution of the remaining grant funds from the institution that includes a listing of all newly eligible supported sponsored research projects for which the institution received award notification during the award eligibility period. grant period and a copies of the formal award notification letters from the project sponsors.
- For each supported project, the following information shall be submitted:
- A) Project title;
 - B) copy of official award notification letter from the project sponsors; and
 - C) a description of institution matching requirements and contributions to be expended during the expenditure period.
- c) Any single supported research project shall not be eligible for more than ten percent of the grant funds appropriated by the State for the grant period.

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Matching Grant Program will be reviewed annually and the results reported to the Board of Higher Education. The following questions will be addressed in the report:

- 1) To what extent have the objectives of the program been achieved?
- 2) How many federal and corporate research dollars have come to Illinois as a result of projects included in the program?
- 3) What monetary and/or non-monetary benefits have accrued to the citizens of Illinois as a result of the projects supported by the grant program?

(Source: Amended at 23 Ill. Reg. _____, effective _____)

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(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1038.70 Conditions and Administrative Responsibilities

- a) Non-Discrimination. No recipient shall discriminate on the basis of race, creed, sex, handicap, color, or national origin in the employment, training, or promotion of personnel.
- b) Audit. Each recipient of a State Matching Grant Program grant shall submit an audit performed by an external auditor who is licensed ~~registered~~ as a public accountant by the Illinois Department of Professional Regulation. Such audit shall include a report from the auditor as to whether ~~for each identified project, sponsor, research funds, were received during the matching period, and the institutional matching contributions were truly stated based on conditions and assurances included in the State Matching Grant Program grant application and award letter. The auditor also shall report as to whether grant funds were expended in accordance with the uses outlined in Section 1038.60. A State Matching Grant program grant specific audit is required and shall be performed in accordance with Government Auditing Standards, 1994 Revision, no later amendments or editions included, issued by the United States General Accounting Office, Comptroller General of the United States. Audits are due by October 1 following the end of the expenditure period.~~
The Government Auditing Standards, 1994 Revision, is offered for sale by the U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, DC 20402-9328, ISBN 0-16-045011-X. A copy of this publication is on file at the Board of Higher Education office. The standards also are available on-line at <http://www.gao.gov/govaud/ybk01.htm#ybkintro>.
- c) Evaluation Report. A report documenting the external leveraging of funds achieved and results achieved by the matching grant funds is to be provided. The report shall document the extent to which the institutions' ability to attract funds has been enhanced by the State Matching Grant Program and what monetary and non-monetary benefits have accrued to the citizens of Illinois as a result of projects included in the State Matching Grant Program. Evaluation reports are due October 1 following the end of the expenditure period.
- d) ~~Any matched project that was used to obtain grant funds, but for which sponsor funding was never received, for any reason, shall require a prorated return of the grant funds attributed to that project.~~
d) Grant funds not expended as matching contributions for eligible projects identified by the grant recipient or the required audit shall be refunded to the Board.
- e) At the end of the grant period, the Board may allocate any remaining, returned or unspent funds to eligible applicant institutions based on their previously determined proportionate share.
- f) With the assistance of a panel of external evaluators, the State

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Administration of Medication in Community Settings

- 2) Code Citation: 59 Ill. Adm. Code 116

- 3) Section Numbers: Proposed Action:

116.10	New
116.20	New
116.30	New
116.40	New
116.50	New
116.60	New
116.70	New
116.80	New
116.90	New
116.100	New
116.110	New

- 4) Statutory Authority: Implementing and authorized by Section 15.4 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/15.4].

- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking will govern the delegation of medication administration to unlicensed direct care staff by registered professional nurses in small community settings (16-beds and under) for persons with developmental disabilities.

- 6) Will this proposed rule replace an emergency rule currently in effect?
Yes

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this proposed rule contain incorporations by reference? No

- 9) Are there any other amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the Illinois Register. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East

DEPARTMENT OF HUMAN SERVICES

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3rd Floor Harris Building
Springfield, Illinois 62762
Telephone number: (217) 785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the proposed rule is identical to the emergency rule published in this issue of the Illinois Register on page 11-99-0

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Collection Agency Act
- 2) Code Citation: 68 Ill. Adm. Code 1210
- 3) Section Numbers: Proposed Action:
 1210.25 Amendment
 1210.110 Amendment
 1210.237 New Section
- 4) Statutory Authority: Collection Agency Act (225 ILCS 425).
- 5) A Complete Description of the Subjects and Issues Involved: Public Act 91-454, effective January 1, 2000, replaces the Act's statutory fees with fees set by administrative rule; this proposed rulemaking adds Section 1240.205 to accomplish that change.
- 6) Will these proposed amendments replace emergency rules currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives if applicable: This rulemaking has no impact on local governments.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Department of Professional Regulation
 Attention: Jean A. Courtney
 320 West Washington, 3rd Floor
 Springfield IL 62786
 217/785-0813

All written comments received within 45 days of this issue of the *Illinois Register* will be considered.

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Licensed collection agencies.

B) Reporting, bookkeeping or other procedures required for compliance:
 None

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NOTICE OF PROPOSED AMENDMENTS

- C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
 CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
 SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1210
 COLLECTION AGENCY ACT

Section	
1210.10	Definitions
1210.20	Officer
1210.25	Application for Registration
1210.30	Harassment Defined (Repealed)
1210.40	Section 9.21 of Act Defined (Repealed)
1210.50	Posing as an Attorney (Repealed)
1210.60	Communication by Agency
1210.70	Use of Pseudonyms
1210.80	Doing Business at More Than One Office or Location
1210.90	Additional Office or Change of Location of Office
1210.100	Notices (Repealed)
1210.105	Change of Ownership
1210.110	Termination or Change in Registration
1210.120	Address for Notice (Repealed)
1210.130	Use of Street Addresses (Repealed)
1210.140	Records and Documents to be Kept by Collection Agency
1210.150	Recording of Payments
1210.160	Multiple Creditors
1210.170	Availability of Books, Records, Forms and Stationery
1210.180	Accounting and Remitting Collected Funds
1210.190	Creditor Accounts
1210.200	Trust Accounts (Repealed)
1210.210	Notice for Hearing (Repealed)
1210.220	Procedures for Hearing (Repealed)
1210.230	Default Disposition of a Hearing (Repealed)
1210.235	Renewals
1210.237	Fees
1210.240	Granting Variances
1210.250	Construction of Rules and Regulations (Repealed)

AUTHORITY: Implementing Section 13 of the Collection Agency Act [225 ILCS 425] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Rules and Regulations Promulgated for the Administration of the Illinois Collection Agency Act, effective December 3, 1976; codified at 5 Ill. Reg. 11025; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; transferred from Chapter I, 68 Ill. Adm. Code 210 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1210 (Department

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of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2919; amended at 17 Ill. Reg. 1535, effective January 25, 1993; amended at 22 Ill. Reg. 16479, effective September 4, 1998; amended at 23 Ill. Reg. _____, effective _____.

Section 1210.25 Application for Registration

All applications for registration as a collection agency shall be submitted to the Department, on forms provided by the Department, and include:

- The name and address of all officers of the collection agency (as defined in Section 1210.20). The address shall be an actual street address and shall include the city, state and zip code. A post office box number is not acceptable as an address;
- Proof of a \$25,000 surety bond;
- The name of the bank, savings and loan association or other required depository in which the trust account shall be maintained; and
- The required fee set forth in Section 1210.237 ~~8a(1)-of-the-Act~~.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1210.110 Termination or Change in Registration

- The certificate of registration shall terminate:
 - When the agency ceases operation;
 - When the agency ceases to operate under the name on the certificate of registration;
 - When the bond is nonrenewed or cancelled; or
 - When the certificate of registration is revoked.
- The agency shall notify the Department in writing by certified mail within 10 days when the agency ceases to operate or ceases to operate under the name on the certificate. Notice of bond termination is set forth in Section 8~~a~~(7) of the Act.
- In the event of a change of the agency name, the registrant may apply for a new certificate of registration in advance of the effective date of such change by filing an application and paying the appropriate fee as set forth in Section 1210.237 ~~8a(1)-of-the-Act~~. The application shall be handled as an original application.
- All notices required by this Section shall be sent to the Department at 320 West Washington, 3rd Floor, Springfield, Illinois 62786.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1210.237 Fees

The following fees shall be paid _____ the Department and are not refundable:

- Application Fees

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- 1) The fee for application for a certificate of registration as a collection agency is \$750.
 - 2) The fee for application for a certificate of registration to operate as a branch office is \$250.
- b) Renewal Fees
- 1) The fee for the renewal of a certificate of registration as a collection agency is \$750.
 - 2) The fee for the renewal of a certificate of registration for a branch office is \$150.
- c) General Fees
- 1) The fee for the issuance of a duplicate certificate of registration, for the issuance of a replacement certificate for a certificate that has been lost or destroyed, or for the issuance of a certificate with a change of name or address other than during the renewal period is \$20. No fee is required for name and address changes on Department records when no duplicate license is issued.
 - 2) The fee for a certification of a registrant's record for any purpose is \$20.
 - 3) The fee for a wall certificate showing registration shall be the actual cost of producing the certificate.
 - 4) The fee for a roster of registrants shall be the actual cost of producing the roster.

All fees and fines collected under the Act and this Part shall be deposited into the General Professions Dedicated Fund. All monies in the fund shall be used by the Department of Professional Regulation, as appropriated, for the ordinary and contingent expenses of the Department.

Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of \$50. If the check or other payment was for a renewal or issuance fee and that person practices without paying the renewal fee or issuance fee and the fine due, an additional fine of \$100 shall be imposed. The fines imposed by this Section are in addition to any other discipline provided under the Act for unlicensed practice or practice on a nonrenewed license. The Department shall notify the person that payment of fees and fines shall be paid to the Department by certified check or money order within 30 calendar days after the notification. If, after the expiration of 30 days from the date of notification the person has failed to submit the necessary remittance, the Department shall automatically terminate the license or certificate or deny the application, without hearing. If, after termination or denial, the person seeks a license or certificate, he or she shall apply to the Department for restoration or issuance of the license or certificate and pay all fees and fines due to the Department. The Director may waive the fines due under this Section in individual cases where the Director finds the fines would be unreasonable or unnecessarily burdensome.

(Source: Added at 23 Ill. Reg. _____, effective

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- 1) Heading of the Part: Deception Examiners Act
- 2) Code Citation: 68 Ill. Adm. Code 1230
- 3) Section Numbers: 1230.155
Proposed Action: New Section
- 4) Statutory Authority: The Detection of Deception Examiners Act [225 ILCS 430]
- 5) A Complete Description of the Subjects and Issues Involved: Public Act 91-454 removes the statutory fee Section of the Act, to be replaced with fees by administrative rule; this rulemaking adds Section 1230.155 to implement that provision.
- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no impact on local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Department of Professional Regulation
Attention: Jean A. Courtney
320 West Washington, 3rd Floor
Springfield IL 62786
217/785-0813 Fax #: 217/782-7645

All written comments received within 45 days of this issue of the *Illinois Register* will be considered.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Those using or offering the services of a detection of deception examiner.

B) Reporting, bookkeeping or other procedures required for compliance: None

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- C) Types of professional skills necessary for compliance: Skills in operating a device or instrument used to test or question individuals for the purpose of evaluating truthfulness or untruthfulness are necessary for licensure.

13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page:

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TITLE 68: PROFESSIONS AND OCCUPATIONS
 CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
 SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1230

DETECTION OF DECEPTION EXAMINERS ACT

Section	Statutory Authority (Repealed)
1230.10	Definitions
1230.20	Six Month Study of Detection of Deception
1230.30	Instructors Qualifications and Approval
1230.40	Application for Registered Training
1230.50	Application for Licensure Examination
1230.60	Licensure Examination
1230.70	Impermissible Advertising
1230.80	Pre-Test Interview
1230.90	Protection of the Rights of the Subject
1230.100	Impermissible Activities of an Examiner
1230.110	Disclosure of Examination Results
1230.120	Required Records
1230.130	Endorsement
1230.140	Renewals
1230.150	Fees
1230.155	Granting Variances
1230.160	

AUTHORITY: Implementing Section 22 of the Detection of Deception Examiners Act [225 ILCS 430] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Regulations promulgated for the Administration and Enforcement of the Illinois Detection of Deception Examiners Act, effective June 26, 1975; codified at 5 Ill. Reg. 11031; amended at 6 Ill. Reg. 788, effective January 15, 1982; transferred from Chapter I, 68 Ill. Adm. Code 230 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1230 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2929; amended at 22 Ill. Reg. 10567, effective June 1, 1998; amended at 23 Ill. Reg. _____, effective _____.

Section 1230.155 Fees

The following fees shall be paid to the Department and are not refundable:

- a) Application Fees. The fee for application for a license as a detection of deception examiner is \$25. In addition, applicants for an examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the

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time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee.

- b) Renewal Fees. The fee for the renewal of a license shall be calculated at the rate of \$90 per year, not to exceed \$500.

c) General Fees.

- 1) The fee for the restoration of a license other than from inactive status is \$20 plus payment of all lapsed renewal fees.
- 2) The fee for the issuance of a duplicate license, for the issuance of a replacement license for a license that has been lost or destroyed or for the issuance of a license with a change of name or address, other than during the renewal period, is \$20. No fee is required for name and address changes on Department records when no duplicate license is issued.
- 3) The fee for a certification of a licensee's record for any purpose is \$20.
- 4) The fee to have the scoring of an examination authorized by the Department reviewed and verified is \$20 plus any fees charged by the applicable testing service.
- 5) The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.
- 6) The fee for a roster of persons licensed as detection of deception examiners in this State shall be the actual cost of producing the roster.

(Source: Added at 23 Ill. Reg. _____, effective _____)

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Environmental Health Practitioner Licensing Act
- 2) Code Citation: 68 Ill. Adm. Code 1247
- 3) Section Numbers:
- | | |
|----------|-------------|
| 1247.10 | Repealed |
| 1247.20 | Amendment |
| 1247.55 | New Section |
| 1247.60 | Amendment |
| 1247.70 | Amendment |
| 1247.75 | New Section |
| 1247.90 | Amendment |
| 1247.100 | Amendment |

- 4) Statutory Authority: The Environmental Health Practitioner Licensing Act [225 ILCS 37].

- 5) A Complete Description of the Subjects and Issues Involved: Public Act 91-454, effective January 1, 2000, replaces the Act's statutory fees with fees set by administrative rule; this proposed rulemaking accomplishes that change. Section 55 adds a definition of "direct supervision". Obsolete language is also removed and clean-up changes made.

- 6) Will these proposed amendments replace emergency rules currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed amendments contain incorporations by reference? No

- 9) Are there any other proposed amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no impact on local governments.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Department of Professional Regulation
 Attention: Jean A. Courtney
 320 West Washington, 3rd Floor
 Springfield IL 62786
 217/785-0813

All written comments received within 45 days of this issue of the *Illinois Register* will be considered.

- 12) Initial Regulatory Flexibility Analysis:

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- A) Types of small businesses, small municipalities and not for profit corporations affected: Those providing the services of environmental health practitioners.

- B) Reporting, bookkeeping or other procedures required for compliance:
None

- C) Types of professional skills necessary for compliance: Environmental health practitioner skills are required for licensure.

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page:

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TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER B: PROFESSIONS AND OCCUPATIONS

PART 1247
ENVIRONMENTAL HEALTH PRACTITIONER LICENSING ACT

Section 1247.10	Application for Licensure as an Environmental Health Practitioner Under Section 21(a) or (b) of the Act (Grandfather) (Repealed)
1247.20	Application for Examination/Licensure
1247.30	Examination
1247.40	Approved Programs of Environmental Health Practitioners
1247.50	Experience
1247.55	Definition of Direct Supervision
1247.60	Endorsement
1247.70	Renewal
1247.75	Fees
1247.80	Inactive Status
1247.90	Restoration
1247.100	Continuing Education
1247.110	Granting Variances

AUTHORITY: Implementing the Environmental Health Practitioner Licensing Act [225 ILCS 37] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Adopted at 20 Ill. Reg. 2400, effective January 29, 1996; amended at 21 Ill. Reg. 16038, effective November 24, 1997; amended at 22 Ill. Reg. 15612, effective August 12, 1998; amended at 23 Ill. Reg. _____, effective _____.

Section 1247.10 Application for Licensure as an Environmental Health Practitioner Under Section 21(a) or (b) of the Act (Grandfather) (Repealed)

- a) Any person seeking licensure under Section 21(a) of the Environmental Health Practitioner Licensing Act (the Act) shall file an application with the Department of Professional Regulation (the Department) on forms provided by the Department. The application shall be postmarked no later than December 31, 1996, and shall include the following:
- 1) Certification by the applicant's employer that on June 30, 1995, the effective date of the amendatory Act, the applicant was serving as a sanitarian or environmental health practitioner in environmental health practice in the State of Illinois;
- 2) Proof of passage of the examination set forth in Section 1247.30;
- 3) A complete work history; and
- 4) The required fee set forth in Section 28 of the Act.
- b) Any person seeking licensure without examination under Section 21(b)

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of the Act shall file an application with the Department on forms provided by the Department. The application shall be postmarked no later than December 31, 1996, and shall include the following:

- 1) Verification of current registration as a sanitarian or environmental health practitioner issued by the Registration Board of the Illinois Environmental Health Association or the National Environmental Health Association;
- 2) A complete work history; and
- 3) The required fee set forth in Section 28 of the Act.

(Source: Repealed at 23 Ill. Reg. _____, effective _____.)

Section 1247.20 Application for Examination/Licensure

An applicant for examination to obtain licensure as an environmental health practitioner shall file an application, on forms provided by the Department, at least 90 days prior to the examination date. The application shall include:

- a) Verification, on forms provided by the Department, that the applicant meets one of the following qualifications:
- 1) Holds a bachelor's degree from an accredited college or university approved by the National Environmental Health Science and Protection Accreditation Council for environmental health curricula or its equivalent as approved by the Department in accordance with Section 1247.40 of this Part;
- 2) Holds a bachelor's degree from an accredited college or university which included a minimum of 30 semester hours, or the equivalent, of basic sciences approved by the Department in accordance with Section 1247.40 and 12 months of full-time experience as set forth in Section 1247.50; or
- 3) Holds a master's degree in public health or environmental health science from an accredited college or university if the applicant has completed a minimum of 30 semester or equivalent hours of basic science as approved by the Department in accordance with Section 1247.40;

- b) A complete work history since receipt of a bachelor's degree;
- c) The required fee set forth in Section 1247.75 of the Act; and
- d) Certification, on forms provided by the Department, from the jurisdiction in which the applicant was originally licensed and the jurisdiction in which the applicant predominantly practices and is currently registered/licensed, if applicable, stating:
- 1) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance of the license;
- 2) A description of the examination in that jurisdiction; and
- 3) Whether the file on the applicant contains any record of disciplinary actions taken or pending.

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(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1247.55 Definition of Direct Supervision

A person performing the functions and duties of an environmental health practitioner under the direct supervision of a licensed environmental health practitioner or licensed professional engineer if that person is not responsible for the administration or supervision of one or more employees engaged in an environmental health program. (Section 16(1) of the Act)

a) Pursuant to Section 16(1) of the Act, the term direct supervision means that a licensed environmental health practitioner or licensed professional engineer shall be responsible for all actions of the unlicensed exempt individual in the performance of his/her duties.

b) The supervisor shall be responsible for, but not be limited to, the following:

- 1) Conducting performance evaluations on the technical application of environmental health practices;
- 2) Documenting that the work performed by the exempt individual has been reviewed on a routine basis;
- 3) Documenting that routine communication regarding environmental health practices has taken place between the supervisor and the exempt individual.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 1247.60 Endorsement

a) An applicant who is licensed/registered under the laws of another jurisdiction and who wishes to be licensed in Illinois as an environmental health practitioner shall file an application with the Department, on forms provided by the Department, which includes:

- 1) Proof of Education and Experience
 - A) Certification of a bachelor's degree from an accredited college or university approved by the National Environmental Health Science and Protection Accreditation Council for environmental health curricula or its equivalent as approved by the Department in accordance with Section 1247.40 of this Part; or
 - B) Certification of a bachelor's degree from an accredited college or university which included a minimum of 30 semester hours or the equivalent of basic sciences approved by the Department in accordance with Section 1247.40 and 12 months of full time experience as set forth in Section 1247.50; or
 - C) Certification of a master's degree in public health or environmental health science from an accredited college or

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university if the applicant has completed a minimum of 30 semester or equivalent hours of basic science as approved by the Department in accordance with Section 1247.40;

2) Certification of successful completion of the Professional Examination Service Environmental Health Proficiency Exam or its equivalent;

3) A complete work history;

4) The required fee set forth in Section 1247.75 ~~28-of-the-Act~~; and

5) Certification, on forms provided by the Department, from the jurisdiction in which the applicant was originally licensed and the state in which the applicant predominantly practices and is currently registered/licensed, if applicable, stating:

A) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance of the license;

B) A description of the examination in that jurisdiction; and

C) Whether the file on the applicant contains any record of disciplinary actions taken or pending.

b) When the accuracy of any submitted documentation, or the relevance or sufficiency of the course work or experience is questioned by the Department because of a lack of information, discrepancies or conflicts in information given, or a need for clarification, the applicant seeking licensure by endorsement shall be requested to:

- 1) Provide such information as may be necessary; and/or
- 2) Appear for an interview before the Environmental Health Practitioners Board (Board) to explain such relevance or sufficiency, clarify information, or clear up any discrepancies or conflicts in information.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1247.70 Renewal

a) ~~Every the first renewal period for licenses issued under the Act end--April-30-1998--thereafter--every~~ license issued under the Act shall expire on April 30 of even-numbered years. The holder of a license may renew such license during the month preceding the expiration date by paying the fee required by Section 1247.75 and meeting the continuing education requirements set forth in Section 1247.100 ~~28-of-the-Act~~.

b) It is the responsibility of each licensee to notify the Department of any change of address. Failure to receive a renewal form from the Department shall not constitute an excuse for failure to pay the renewal fee or to renew one's license.

c) ~~Continuing education will be required to renew a license on April-30-2000--and every--thereafter--~~

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(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1247.75 Fees

The following fees shall be paid to the Department and are not refundable:

- a) Application Fees.
- 1) The fee for application for a license as an environmental health practitioner is \$100. In addition, applicants for an examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee.
 - 2) The fee for application as a continuing education sponsor is \$500. State colleges, universities, and State agencies are exempt from payment of this fee.
- b) Renewal Fees.
- 1) The fee for the renewal of a license shall be calculated at the rate of \$110 per year.
 - 2) The fee for renewal of continuing education sponsor approval is \$250.
- c) General Fees.
- 1) The fee for the restoration of a license other than from inactive status is \$20 plus payment of all lapsed renewal fees, not to exceed \$600.
 - 2) The fee for the issuance of a duplicate license, for the issuance of a replacement license for a license which has been lost or destroyed or for the issuance of a license with a change of name or address, other than during the renewal period, is \$20. No fee is required for name and address changes on Department records when no duplicate license is issued.
 - 3) The fee for a certification of a licensee's record for any purpose is \$20.
 - 4) The fee to have the scoring of an examination administered by the Department reviewed and verified is \$20, plus any fee charged by the testing service.
 - 5) The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.
 - 6) The fee for a roster of persons licensed as environmental health practitioners in this State shall be the actual cost of producing the roster.

(Source: Added at 23 Ill. Reg. _____, effective _____)

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Section 1247.90 Restoration

- a) Any environmental health practitioner whose license expired or has been placed on inactive status for 5 years or less may have the license restored by paying the fees required by Section 1247.75 and providing proof of meeting continuing education requirements set forth in Section 1247.100 during the 2 years prior to restoration ~~20-of-the~~ **20-of-the** Act.
- b) Any person seeking restoration of a license that has been expired or placed on inactive status for more than 5 years shall file an application, on forms provided by the Department, for review by the Board, together with the fee required by Section 1247.75 and providing proof of meeting continuing education requirements set forth in Section 1247.100 during the 2 years prior to restoration ~~20-of-the~~ **20-of-the** Act. The applicant shall also submit either:
 - 1) Sworn evidence of active practice in another jurisdiction. Such evidence shall include a statement from an appropriate board or licensing authority in the other jurisdiction that the licensee/registrant was authorized to practice during the term of active practice; or
 - 2) An affidavit attesting to military service as provided in Section 27(c) of the Act; or
 - 3) Proof of passage of the environmental Health Proficiency Examination during the period the license was lapsed or on inactive status.
- c) Any person seeking restoration of a license within 2 years after discharge from military service pursuant to Section 27(c) of the Act will be required to pay only the current renewal fee and will not be required to submit proof of meeting the continuing education requirements.
- d) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department because of a lack of information, discrepancies or conflicts in information given, or a need for clarification, the registrant seeking restoration shall be requested to:
 - 1) Provide such information as may be necessary; and/or
 - 2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.
- e) Upon the recommendation of the Board and approval of the Director, an applicant shall have the registration restored or be notified in writing of the reason for denying the application.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1247.100 Continuing Education

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a) Continuing Education Hours Requirements

- 1) Beginning with the April 30, 2000 renewal and every renewal thereafter, in order to renew a license as an environmental health practitioner, a licensee shall be required to complete 20 hours of continuing education (CE) relevant to the practice of environmental health.
- 2) A prerenewal period is the 24 months preceding April 30 of each even-numbered year.
- 3) One CE hour shall equal 60 minutes of attendance. After completion of the initial CE hour, credit may be given in one-half hour increments.
- 4) A renewal applicant shall not be required to comply with CE requirements for the first renewal of an Illinois license.
- 5) Environmental health practitioners licensed in Illinois but residing and practicing in other states shall comply with the CE requirements set forth in this Section.
- 6) Continuing education credit hours used to satisfy the CE requirements of another jurisdiction may be applied to fulfill the CE requirements of the State of Illinois.

b) Approved Continuing Education

- 1) CE hours shall be earned by verified attendance (e.g., certificate of attendance or certificate of completion) at or participation in a program or course (program) that is offered or sponsored by an approved continuing education sponsor meeting the requirements set forth in subsection (c) below, except for those activities provided in subsections (b)(2), (3), (4) and (5) below.
- 2) A maximum of 10 CE credits per prerenewal period may be earned for completion of a correspondence course that is offered by an approved sponsor meeting the requirements set forth in subsection (c) below. Each correspondence course shall include an examination.
- 3) CE credit may be earned through postgraduate training programs (e.g., extern, residency or fellowship programs) or completion of environmental health related courses that are a part of the curriculum of a college, university or graduate school. Courses that are part of the curriculum of a university, college or other educational institution shall be allotted CE credit at the rate of 15 CE hours for each semester hour or 10 CE hours for each quarter hour of school credit awarded.
- 4) CE credit may be earned for verified teaching in the field of environmental health in an accredited college, university or graduate school and/or as an instructor of continuing education programs given by approved sponsors. Credit will be applied at the rate of 2 hours for every hour taught and only for the first presentation of the program (i.e., credit shall not be allowed for repetitious presentations of the same program). A maximum of 10 hours of CE credit may be obtained in this category per

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- 5) prerenewal period.
CE credit may be earned for authoring papers, publications, dissertations or books and for preparing presentations and exhibits in the field of environmental health. The preparation of each published paper, book chapter or professional presentation dealing with environmental health may be claimed as 5 hours of credit. A presentation must be before an audience of professionals. Five credit hours may be claimed for only the first time the information is published or presented.

- c) Approved CE Sponsors and Programs
 - 1) Sponsor, as used in this Section, shall mean:
 - A) American Association of Safety Engineers
 - B) American Public Health Association
 - C) American Society of Safety Engineers
 - D) Associated Illinois Milk, Food and Environmental Sanitarians
 - E) Association of Food and Drug Officials
 - F) Conference for Food Protection
 - G) Illinois Association of Environmental Health Administrators
 - H) Illinois Association of Ground Water Professionals
 - I) Illinois Association of Public Health Administrators
 - J) Illinois Environmental Health Association and Affiliates
 - K) Illinois Public Health Association
 - L) International Association of Milk, Food, and Environmental Sanitarians
 - M) Interstate Shellfish Shippers Conference
 - N) National Conference of Interstate Milk Shippers
 - O) Illinois Association of Environmental Health Administrators
 - P) National Environmental Health Association and Affiliates
 - Q) National Restaurant Association and Educational Foundation
 - R) National Sanitation Foundation International
 - S) North Central Association of Food and Drug Officials
 - T) Underwriters Laboratory
 - U) State and federal agencies
 - V) Any other accredited school, college or university, or any other person, firm, or association, applying pursuant to subsection (c)(2) below and has been approved and authorized by the Department to coordinate and present continuing education courses and programs in conjunction with this Section.
- 2) An entity seeking approval as a CE sponsor shall submit an application, on forms supplied by the Department, along with the a-\$500 application fee specified in Section 1247.75. ~~{State agencies, State colleges, State universities and county and local health departments--in Illinois shall be exempt from paying this fee.}~~ The application shall include:
 - A) Certification:
 - 1) That all programs offered by the sponsor for CE credit will comply with the criteria in subsection (c)(3)

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- below and all other criteria in this Section:
- ii) That the sponsor shall be responsible for verifying full-time continuous attendance at each program and provide a certificate of attendance as set forth in subsection (c)(9) below;
 - iii) That, upon request by the Department, the sponsor shall submit evidence (e.g., certificate of attendance or course material) as is necessary to establish compliance with this Section. Evidence shall be required when the Department has reason to believe that there is not full compliance with the statute and this Part and that this information is necessary to ensure compliance;
 - iv) ~~That each sponsor shall submit to the Department written notice of program offerings, including program offerings of subcontractors, 30 days prior to course dates. Notice shall include the description, location, date and time of the program to be offered, a copy of a sample program, including course materials, syllabi and a list of faculty.~~
- 3) All programs shall:
- A) Contribute to the advancement, extension and enhancement of the professional skills and scientific knowledge of the licensee in practice of environmental health;
 - B) Foster the enhancement of general or specialized practice and values of environmental health;
 - C) Be developed and presented by persons with education and/or experience in the subject matter of the program;
 - D) Specify the course objectives, course content and teaching methods to be used; and
 - E) Specify the number of CE hours that may be applied to fulfilling the Illinois CE requirements for license renewal.
- 4) Each CE program shall provide a mechanism for evaluation of the program and instructor to be completed by the participants. The evaluation may be completed on-site immediately following the program presentation or an evaluation questionnaire may be distributed to participants to be completed and returned by mail. The sponsor and the instructor shall review together the evaluation outcome and revise subsequent programs accordingly.
- 5) An approved sponsor may subcontract with individuals and organizations to provide approved programs. All advertising, promotional materials, and certificates of attendance must identify the licensed sponsor and the sponsor's license number. The presenter of the program may also be identified, but should be identified as a presenter. When a licensed sponsor subcontracts with a presenter, the licensed sponsor retains all responsibility for monitoring attendance, providing certificates of attendance and ensuring the program meets all of the criteria

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- established by the Act and this Part, including the maintenance of records.
- 6) All programs given by approved sponsors shall be open to all licensed environmental health practitioners and not be limited to members of a single organization or group.
 - 7) To maintain approval as a sponsor, each sponsor shall submit to the Department by April 30 of each even numbered year a renewal application, the fee specified in Section 1247.75 a-\$550-fee and a list of courses and programs offered within the last 24 months. The list shall include a brief description, location, date and time of each course given by the sponsor and by any subcontractor.
 - 8) Certification of Attendance. It shall be the responsibility of a sponsor to provide each participant in a program with a certificate of attendance or participation. The sponsor's certificate of attendance shall contain:
 - A) The name, address and license number of the sponsor;
 - B) The name and address of the participant;
 - C) A brief statement of the subject matter;
 - D) The number of hours attended in each program;
 - E) The date and place of the program; and
 - F) The signature of the sponsor.
 - 9) The sponsor shall maintain attendance records for not less than 5 years.
 - 10) The sponsor shall be responsible for assuring that no renewal applicant shall receive CE credit for time not actually spent attending the program.
 - 11) Upon the failure of a sponsor to comply with any of the requirements of this Section, the Department, after notice to the sponsor and hearing before the Board and recommendation by the Board (see 68 Ill. Adm. Code 1110), shall thereafter refuse to accept for CE credit attendance at or participation in any of that sponsor's CE programs until such time as the Department receives assurances of compliance with this Section.
 - 12) Notwithstanding any other provision of this Section, the Department or Board may evaluate any sponsor of any approved CE program at any time to ensure compliance with requirements of this Section.
- d) Certification of Compliance with CE Requirements
- 1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements set forth in subsections (a) and (b) above.
 - 2) The Department may require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of attendance). This additional evidence shall be required in the context of the Department's random audit. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance.

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3) When there appears to be a lack of compliance with CE requirements, an applicant shall be notified in writing and may request an interview with the Board. At that time the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].

e) Continuing Education Earned in Other Jurisdictions

1) If a licensee has earned or is seeking CE hours offered in another jurisdiction not given by an approved sponsor for which the licensee will be claiming credit toward full compliance in Illinois, the applicant shall submit an individual program approval request form, along with a \$25 processing fee, prior to participation in the program or within 90 days prior to expiration of the license. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3) of this Section.

2) If a licensee fails to submit an out of state CE approval form within the required time frame, late approval may be obtained by submitting the approval request form with the \$25 processing fee plus a \$10 per hour late fee not to exceed \$150. The Board shall review and recommend approval and disapproval of the program using the criteria set forth in subsection (c)(3) of this Section.

f) Restoration of Nonrenewed License. Upon satisfactory evidence of compliance with CE requirements, the Department shall restore the license upon payment of the required fee as provided in Section ~~1247.75~~ ~~13447~~ ~~and 15~~ ~~of the Act~~.

g) Waiver of CE Requirements

1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the Department a renewal application along with the required fee set forth in Section ~~1247.75~~ ~~13437~~ ~~of the Act~~, a statement setting forth the facts concerning non-compliance and a request for waiver of the CE requirements on the basis of these facts. A request for waiver shall be made prior to the renewal date. If the Department, upon the written recommendation of the Board, finds from such affidavit or any other evidence submitted that extreme hardship has been shown for granting a waiver, the Department shall waive enforcement of CE requirements for the renewal period for which the applicant has applied.

2) Extreme hardship shall be determined on an individual basis by the Board and be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:

- A) Full-time service in the armed forces of the United States of America during a substantial part of the prerenewal period;
- B) An incapacitating illness documented by a statement from a

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currently licensed physician;
C) A physical inability to travel to the sites of approved programs documented by a currently licensed physician; or
D) Any other similar extenuating circumstances.

3) Any renewal applicant who, prior to the expiration date of the license, submits a request for a waiver, in whole or in part, pursuant to the provisions of this Section shall be deemed to be in good standing until the final decision on the application is made by the Department.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Illinois Physical Therapy Act

2) Code Citation: 68 Ill. Adm. Code 1340

3) Section Numbers: Proposed Action:

1340.30 Amendment

1340.50 Amendment

1340.57 New Section

1340.60 Amendment

4) Statutory Authority: Illinois Physical Therapy Act [225 ILCS 90]

5) A Complete Description of the Subjects and Issues Involved: Public Act 91-454, effective January 1, 2000, replaces the Act's statutory fees with fees set by administrative rule; this proposed rulemaking adds Section 1240.205 to accomplish that change. Obsolete provisions have also been removed and various technical revisions have been made.

6) Will these proposed amendments replace emergency amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no impact on local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Department of Professional Regulation
Attention: Jean A. Courtney
320 West Washington, 3rd Floor
Springfield IL 62786
217/785-0813 Fax #: 217/782-7645

All written comments received within 45 days of this issue of the *Illinois Register* will be considered.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Those providing physical therapy services.

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B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: Physical therapy skills are necessary for licensure.

13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page:

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TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1340

ILLINOIS PHYSICAL THERAPY ACT

Section	Application for Licensure Under Section 8.1 of the Act (Grandfather)
1340.15	(Repealed)
1340.20	Approved Curriculum
1340.30	Application for Licensure on the Basis of Examination
1340.40	Examination
1340.50	Endorsement
1340.55	Renewals
1340.57	Fees
1340.60	Restoration
1340.65	Unprofessional Conduct
1340.66	Advertising
1340.70	Granting Variances

AUTHORITY: Implementing the Illinois Physical Therapy Act [225 ILCS 90] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [21 ILCS 2105/60(7)].

SOURCE: Adopted at 5 Ill. Reg. 6500, effective June 3, 1981; codified at 1 Ill. Reg. 11048; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 9 Ill. Reg. 1906, effective January 28, 1985; recodified from Chapter I, 68 Ill. Adm. Code 340 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1340 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2959; amended at 12 Ill. Reg. 8030, effective April 25, 1988; amended at 15 Ill. Reg. 5254, effective March 29, 1991; emergency amendment at 15 Ill. Reg. 11503, effective July 30, 1991, for a maximum of 150 days; emergency expired December 27, 1991; amended at 16 Ill. Reg. 3175, effective February 18, 1992; amended at 17 Ill. Reg. 14606, effective August 27, 1993; amended at 20 Ill. Reg. 10678, effective July 26, 1996; amended at 23 Ill. Reg. _____, effective _____.

Section 1340.30 Application for Licensure on the Basis of Examination

- a) An applicant for a physical therapist license by examination shall file an application on forms supplied by the Department. The application shall include:
- 1) A complete work history indicating all employment since graduation from a physical therapy program;
 - 2) Certification of successful completion of a physical therapy program, signed by the Director of the Physical Therapy Program

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or other authorized university official and bearing the seal of the university, which meets the requirements set forth in Section 1340.20 of this Part:

- 3) Proof of passage of the Test of English as a Foreign Language (TOEFL) with a score of 550 and the Test of Spoken English (TSE) with a score of 50 for applicants who apply after January 1, 1996, who graduated from a physical therapy program outside the United States or its territories and whose first language is not English. In order to determine applicants whose first language is English, the applicant shall submit verification from the school that the physical therapy program from which the applicant graduated was taught in English; and
 - 4) The required fee specified in Section 1340.57 of this Part ~~and-(2)-of-the-Act.~~
- b) An applicant for a physical therapist assistant license by examination shall file an application on forms supplied by the Department. The application shall include:
- 1) A complete work history indicating all employment since graduation from a physical therapist assistant program;
 - 2) Either:
 - A) Certification of graduation from a 2 year college-level physical therapist assistant program signed by the director of the Physical Therapy Program or other authorized school official and bearing the seal of the school which meets the requirements set forth in Section 1340.20 of this Part; or
 - B) Certification that the applicant is a full-time student in his/her final term of a 2 year college-level physical therapist assistant program with a curriculum that meets the requirements set forth in Section 1340.20 of this Part (certification of graduation shall be received by the Department prior to the applicant's being issued a license);
 - 3) Proof of passage of the Test of English as a Foreign Language (TOEFL) with a minimum score of 550 and the Test of Spoken English (TSE) with a score of 50 for applicants who apply after January 1, 1996, who graduated from a physical therapy program outside the United States or its territories and whose first language is not English. In order to determine applicants whose first language is English, the applicant shall submit verification from the school that the physical therapy program from which the applicant graduated was taught in English; and
 - 4) The required fee specified in Section 1340.57 ~~and-(2)-of-the-Act.~~
- c) If supporting documentation for the application is not in English, a certified translation must be included.
- d) A graduate of a physical therapy or physical therapist assistant program outside the United States or its territories shall have his/her degree validated, by a credentialing agency at the applicant's expense, as equivalent to a physical therapy degree conferred by a

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regionally accredited college or university in the United States.

e) An applicant shall have 60 days after approval of the application to take the examination. If the examination is not taken within those 60 days, the examination fee is forfeited and the applicant shall resubmit the required examination fee to Continental Testing Services, Inc. An applicant who fails to take the examination within 60 days shall forfeit his/her right to work as a physical therapist assistant until the examination is passed.

f) If the applicant has ever been licensed/registered in another state or territory of the United States, he/she shall also submit a certification, on forms provided by the Department, from the state or territory of the United States in which the applicant was originally licensed and the state in which the applicant predominantly practices and is currently licensed, stating:

- 1) The time during which the applicant was registered in that jurisdiction, including the date of the original issuance of the license;
 - 2) A description of the examination in that jurisdiction;
 - 3) Whether the file on the applicant contains any record of disciplinary actions taken or pending.
- g) An applicant for a license, who has successfully completed the examination recognized by the Department in another jurisdiction but who has not been licensed in that jurisdiction, shall file an application in accordance with subsection (a) or (b) above and have the examination scores submitted to the Department by the reporting entity.
- h) If the Department has questions or doubts with respect to the documentation or accuracy of any of the matters set forth in the application, the applicant will be required to appear before the Committee and/or provide such additional information as necessary.
- i) If the applicant has been determined eligible for licensure except for passing of the examination, the applicant shall be issued a letter of authorization which allows him/her to practice under supervision in accordance with Section 2 of the Act. Supervision shall constitute the presence of the licensed physical therapist on site to provide supervision. The applicant shall not begin practice as a physical therapist or physical therapist assistant, license pending, until the letter of authorization is received from the Department.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1340.50 Endorsement

- a) An applicant who is currently licensed under the laws of another state or territory of the United States and who wishes to be licensed as a physical therapist or physical therapist assistant by endorsement, shall file an application with the Department, on forms provided by

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the Department, which shall include:

- 1) Certification, on forms provided by the Department, of successful completion of an approved physical therapy or physical therapist assistant program in accordance with Section 1340.20;
 - 2) Certification from the state or territory of original licensure and the state in which the applicant is currently licensed and practicing, if other than original, stating the time during which the applicant was licensed in that state, whether the file on the applicant contains record of any disciplinary actions taken or pending, and the applicant's license number;
 - 3) Proof of passage of the Test of English as a Foreign Language (TOEFL) with a minimum score of 550 and the Test of Spoken English (TSE) with a score 50 for applicants who apply after January 1, 1996, who graduated from a physical therapy program outside the United States or its territories and whose first language is not English. In order to determine applicants whose first language is English, the applicant shall submit verification from the school that the physical therapy program from which the applicant graduated was taught in English. The Department may waive the TOEFL and TSE examination for individuals who are licensed and have been actively practicing in another jurisdiction for 3 years prior to the date of application for licensure in Illinois;
 - 4) A report of the applicant's examination record forwarded directly from the test reporting service;
 - 5) Complete work history since graduation from the physical therapy or physical therapist assistant program; and
 - 6) The required fee specified in Section 1340.57 32-of-the-Act.
- b) A graduate of a physical therapy or physical therapist assistant program outside the United States or its territories shall have his/her degree validated, by a credentialing agency at the applicant's expense, as equivalent to a physical therapy degree conferred by a regionally accredited college or university in the United States.
- c) The Department shall examine each endorsement application to determine whether the requirements in the jurisdiction at the date of licensing were substantially equivalent to the requirements then in force in this State and whether the applicant has otherwise complied with the Act.
- d) The Department shall either issue a license by endorsement to the applicant or notify the applicant in writing of the reasons for the denial of the application.
- e) When an applicant for licensure by endorsement as a physical therapist or physical therapist assistant is notified in writing by the Department that the application is complete, the applicant may practice in Illinois for one year or until licensure has been granted or denied, whichever period of time is lesser, as provided in Section 2(4) of the Act.

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(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1340.57 Fees

The following fees shall be paid to the Department and are not refundable:

a) Application Fees. The fee for application for a license as a physical therapist or physical therapist assistant is \$100. In addition, applicants for an examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee.

b) Renewal Fees. The fee for the renewal of a license shall be calculated at the rate of \$30 per year.

c) General Fees.

1) The fee for the restoration of a license other than from inactive status is \$20 plus payment of all lapsed renewal fees, but not to exceed \$200.

2) The fee for the issuance of a duplicate license, for the issuance of a replacement license for a license that has been lost or destroyed or for the issuance of a license with a change of name or address, other than during the renewal period, is \$20. No fee is required for name and address changes on Department records when no duplicate license is issued.

3) The fee for a certification of a licensee's record for any purpose is \$20.

4) The fee to have the scoring of an examination authorized by the Department reviewed and verified is \$20 plus any fees charged by the applicable testing service.

5) The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.

6) The fee for a roster of persons licensed as physical therapists or physical therapist assistants in this State shall be the actual cost of producing the roster.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 1340.60 Restoration

a) A person applying for restoration of a license which has expired or been placed on inactive status for more than 5 years shall file an application with the Department along with the required fee and shall do one of the following:

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- 1) Submit certification of current licensure from another state or territory completed by the appropriate state board, and show proof of current active practice; or
- 2) Submit an affidavit attesting to military service as provided in Section 15 of the Act. If application is made within 2 years of discharge, and if all other provisions of Section 15 of the Act are satisfied, the applicant will not be required to pay a restoration fee or any lapsed renewal fees; or
- 3) Pass the examination set forth in Section 1340.40; or
- 4) Submit evidence of recent attendance at educational programs in physical therapy, including attendance at college level courses, professionally oriented continuing education classes, special seminars, or any other similar program, or evidence of recent related work experience to show that the applicant has maintained competence in his/her field. The Department will accept:
 - A) For an applicant whose license has lapsed 5 to 10 years, 160 contact hours of clinical training under the supervision of a licensed physical therapist or 20 hours of continuing education relating to the clinical aspects of physical therapy or any combination thereof approved by the Committee.
 - B) For an applicant whose license has lapsed for 10 years or more, 320 contact hours of clinical training under the supervision of a licensed physical therapist or 40 hours of continuing education relating to the clinical aspects of physical therapy or any combination thereof approved by the Committee.

- b) A person applying for restoration of a license that has expired for 5 years or less shall file an application with the Department and submit \$20 plus all lapsed renewal fees as specified in Section 1340.57 of the Act. If application is made within 2 years after discharge from military service, and if all other provisions of Section 15 of the Act are satisfied, the applicant will be required to pay only the current renewal fee.
- c) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department or the Committee because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking restoration shall be requested to:

- 1) Provide such information as may be necessary; and/or
- 2) Appear for an interview before the Committee to explain such relevance or sufficiency, clarify information, or clear up any discrepancies or conflicts of information. Upon the recommendation of the Committee and approval by the Director, an applicant shall have the license restored or will be notified in writing of reason for the denial of the application.

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(Source: Amended at 23 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Private Detective, Private Alarm, Private Security, and Locksmith Act of 1993

2) Code Citation: 68 Ill. Adm. Code 1240

3) Section Numbers: Proposed Action:

1240.10	Amendment
1240.15	Amendment
1240.16	Amendment
1240.40	Amendment
1240.50	Amendment
1240.55	Amendment
1240.60	Amendment
1240.100	Repealed
1240.110	Amendment
1240.130	Amendment
1240.170	Amendment
1240.180	Amendment
1240.190	Amendment
1240.200	Amendment
1240.205	New Section

4) Statutory Authority: Private Detective, Private Alarm, Private Security, and Locksmith Act of 1993 [225 ILCS 446]

5) A Complete Description of the Subjects and Issues Involved: Public Act 91-454, effective January 1, 2000, replaces the Act's statutory fees with fees set by administrative rule; this proposed rulemaking adds Section 1240.205 to accomplish that change. Obsolete provisions have also been removed and various technical revisions have been made.

6) Will these proposed amendments replace emergency amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no impact on local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Department of Professional Regulation

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Jean A. Courtney
320 West Washington, 3rd Floor
Springfield IL 62786
217/785-0813 Fax #: 217/782-7645

All written comments received within 45 days of this issue of the *Illinois Register* will be considered.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Private detectives, security contractors, alarm contractors, locksmiths, and agencies and employees regulated under this Act will be affected.

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: Training and/or experience in various security or other related areas are necessary for licensure.

13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page:

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TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1240

PRIVATE DETECTIVE, PRIVATE ALARM,
PRIVATE SECURITY, AND LOCKSMITH ACT OF 1993

SUBPART A: PRIVATE DETECTIVE, PRIVATE ALARM AND PRIVATE SECURITY

Section	
1240.5	Licensure Under Section 6 of the Act (Repealed)
1240.7	Exemptions Under Section 30 of the Act
1240.10	Application for Examination and Licensure - Private Detective and Private Security Contractor
1240.15	Application for Examination and Licensure - Private Alarm Contractor
1240.16	Registration of Proprietary Security Force
1240.20	20-Hour Basic Training Course - General
1240.25	20-Hour Basic Training Course - Security Guards and Alarm Runners
1240.30	Firearm Training Course
1240.35	Approval of Training Programs and Instructors
1240.40	Permanent Employee Registration Cards
1240.41	Refusal to Issue Employee Registration Card or Firearm Authorization Card Due to Criminal History Record Information
1240.45	Firearm Authorization Cards
1240.46	Recordkeeping Requirements
1240.47	Reporting Requirements
1240.48	Uniforms
1240.50	Renewals
1240.51	Requests for Duplicate Certificates (Renumbered)
1240.55	Endorsement
1240.60	Restoration
1240.65	Conduct of Hearings (Renumbered)
1240.66	Investigation by the Department (Renumbered)
1240.70	Granting Variances (Renumbered)

SUBPART B: LOCKSMITH

Section	Application for Licensure without Examination - Grandfather (Repealed)
1240.100	Application for Examination and Licensure - Locksmith
1240.110	20 Hour Basic Training Course - Locksmith
1240.120	Permanent Employee Registration Cards
1240.130	Refusal to Issue Employee Registration Card
1240.140	Recordkeeping Requirements
1240.150	Reporting Requirements
1240.160	Renewals
1240.170	

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- 1) The term "year" shall be 12 months with an average of at least 20 work days per month during which the applicant was engaged in full-time employment equal to 1500 hours or more annually.
- 2) "Full-time supervisor in a law enforcement agency" shall mean a sworn peace officer serving in a full-time position responsible for the direction and performance of other law enforcement personnel.
- 3) "Investigator in a law enforcement agency" shall mean a sworn peace officer who serves in the capacity of a full time detective/investigator or above rank.
- c) The passing grade on the examination is 70 or above.
- d) Upon notification of successful completion of the examination, the applicant may apply to the Department for licensure. The application must be complete and must be accompanied by:

1) Either:

A) Verification of fingerprint processing from the Illinois Department of State Police, or its designated agent. Effective October 1, 1995, applicants shall contact the Illinois Department of State Police, or its designated agent, for fingerprint processing. Out of state residents unable to utilize the State Police fingerprint process may submit to the Department one set of fingerprint cards issued by the Illinois Department of State Police and one set of fingerprint cards issued by the Federal Bureau of Investigation, accompanied by the specified processing fee pursuant to Section 1240.205 of this Part ~~105(d)(1)(3)-of-the~~ Act; or

B) Verification, on forms provided by the Department, of full-time employment as a police officer, in lieu of fingerprints. Such verification shall be signed by the employer. A peace officer is defined as any person who by virtue of his/her office or public employment is vested by law with a primary duty to maintain public order or to make arrests for offenses and has completed the training requirements of the Illinois Police Training Act. For purposes of this Section, officers, agents or employees of the federal government commissioned by federal statute to make arrests for violations of federal criminal laws shall be considered peace officers;

2) 2 photographs 1" x 1", taken within the 3 months preceding application;

3) Proof of at least \$1,000,000 of liability insurance held by the applicant as evidenced by a certificate of insurance from the insurer; and

4) The required ~~fees~~ specified in Section 1240.205 ~~105-of-the~~ Act.

e) A successful examination score shall be valid for 6 years. After 6 years the examination score will be void and an applicant will be

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SUBPART C: GENERAL

Section
1240.200 Requests for Duplicate Certificates

1240.205 Fees

1240.210 Conduct of Hearings

1240.220 Investigation by the Department

1240.230 Granting Variances

AUTHORITY: Implementing the Private Detective, Private Alarm, Private Security, and Locksmith Act of 1993 [225 ILCS 446] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Rules and Regulations promulgated for the Administration of the Illinois Detective Act, effective October 7, 1975; amended at 4 Ill. Reg. 22, p. 251, effective May 15, 1980; codified at 5 Ill. Reg. 11032; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 6 Ill. Reg. 8208, effective July 15, 1982; emergency amendment at 8 Ill. Reg. 903, effective January 6, 1984, for a maximum of 150 days; Part repealed and new Part adopted at 9 Ill. Reg. 18512, effective November 15, 1985; transferred from Chapter I, 68 Ill. Adm. Code 240 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1240 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2967; amended at 12 Ill. Reg. 20143, effective November 18, 1988; amended at 15 Ill. Reg. 3051, effective February 11, 1991; amended at 17 Ill. Reg. 1579, effective January 26, 1993; amended at 19 Ill. Reg. 954, effective January 17, 1995; amended at 19 Ill. Reg. 11473, effective July 28, 1995; emergency amendment at 19 Ill. Reg. 13460, effective September 8, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 3191, effective February 2, 1996; emergency amendment at 20 Ill. Reg. 14924, effective October 31, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 3135, effective March 4, 1997.

SUBPART A: PRIVATE DETECTIVE, PRIVATE ALARM AND PRIVATE SECURITY

Section 1240.10 Application for Examination and Licensure - Private Detective and Private Security Contractor

- a) Applications for licensure by examination, together with all supporting documentation, including verification of work experience, must be on file at least 60 days prior to the date of the examination.
- b) No candidate shall be admitted to the examination until having fulfilled the experience and/or education requirements specified in Section 75(a)(7) of the Act. To determine such fulfillment, the following standards shall be applied:

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required to file a new application, meeting the requirements at the time of the new application, and will be required to sit for and pass the examination.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1240.15 Application for Examination and Licensure - Private Alarm Contractor

a) An individual seeking licensure by examination as a private alarm contractor shall make application to the Department, on forms provided by the Department, at least 60 days prior to the examination.

The application shall include proof acceptable to the Department that the applicant has fulfilled the required experience specified in Section 70(c) of the Act. To determine such fulfillment, the following standards shall be applied:

1) The term "year" shall be 12 months with an average of at least 20 work days per month during which the applicant was engaged in full-time employment equal to 1500 hours or more annually.

2) Applicants qualified to sit for the examination pursuant to Section 75(c) of the Act shall have private alarm experience which shall include, but not be limited to:

A) Private alarm contractor experience as defined in Section 5 of the Act gained while licensed or lawfully practicing in another jurisdiction with substantially equivalent licensure requirements as in effect in Illinois for 3 of the last 5 years; or

B) A minimum of 3 years experience out of the 5 years immediately preceding application as full-time manager or administrator for an agency licensed as a private alarm contractor agency, or for an entity that designs, sells, installs, services or monitors alarm systems which, in the judgment of the Board satisfies standards of alarm industry competence. (Section 75(c)(8))

b) The passing score on the examination is 70 or above.

c) Upon notification of successful completion of the examination, the applicant may apply to the Department for licensure. The application shall include:

1) Either:

A) Verification of fingerprint processing from the Illinois Department of State Police, or its designated agent. Effective October 1, 1995, applicants shall contact the Illinois Department of State Police, or its designated agent, for fingerprint processing. Out of state residents unable to utilize the State Police fingerprint process may submit to the Department one set of fingerprint cards issued by the Illinois Department of State Police and one set of

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fingerprint cards issued by the Federal Bureau of Investigation, accompanied by the specified processing fee pursuant to Section 1240.205 ~~to Section 1240.205 of the Act~~; or

32) Verification, on forms provided by the Department, of full-time employment as a peace officer in lieu of fingerprints. Such verification shall be signed by the employer. A peace officer is defined as any person who by virtue of his/her office or public employment is vested by law with a primary duty to maintain public order or to make arrests for offenses and has completed the training requirements of the Illinois Police Training Act. For purposes of this Section, officers, agents or employees of the federal government commissioned by federal statute to make arrests for violations of federal criminal laws shall be considered peace officers.

23) 2 photographs 1" x 1" taken within the 3 months preceding application;

34) Proof of at least \$1,000,000 of liability insurance held by the applicant as evidenced by a certificate of insurance from the insurer; and

45) The required fees ~~fees~~ specified in Section 1240.205 ~~to Section 1240.205 of the Act~~.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1240.16 Registration of Proprietary Security Force

a) Pursuant to Section 24-2 of the Criminal Code of 1961, all commercial or industrial operations who employ 5 or more persons as armed security guards in accordance with subsection (a) ~~paragraph~~ (6) and all financial institutions who employ armed security guards in accordance with subsection (a) ~~paragraph~~ (8) shall register their security forces with the Department, on forms provided by the Department, which include the following:

1) Business name and address of the proprietary security force;
2) Any doing business as (d/b/a) names of the proprietary security force;
3) The type of business (sole proprietorship, partnership, corporation);

A) If a partnership, a listing of all partners and addresses;
B) If a corporation, a copy of Articles of Incorporation. If the corporation is a foreign corporation, a copy of the authorization to conduct business in Illinois;

4) The number of armed employees; and
5) The name and title of the security director who will be registering armed employees and who is responsible for the daily activities of the force.

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b) All armed security guard employees of the registered proprietary force in subsection (a) above shall be required to complete a 20 hour basic training course in accordance with Section 1240.25 and a 20-hour firearm training course in accordance with Section 1240.30.

c) Each proprietary force shall be required to apply to the Department, on forms supplied by the Department, for the issuance of a firearm authorization card, in accordance with Section 1240.45(b) and (c), for each armed employee of the security force. Each application shall include:

1) Either:

A) Verification of fingerprint processing from the Illinois Department of State Police, or its designated agent. Effective October 1, 1995, applicants shall contact the Illinois Department of State Police, or its designated agent, for fingerprint processing. Out of state residents unable to utilize the State Police fingerprint process may submit to the Department one set of fingerprint cards issued by the Illinois Department of State Police and one set of fingerprint cards issued by the Federal Bureau of Investigation, accompanied by the specified processing fee pursuant to Section 1240.205. ~~105(d)(13)-of-the-Act; or--A)~~ If the employee has State ~~state~~ and federal fingerprints on file with the Department, additional fingerprints are not required; or

B) Verification, on forms, provided by the Department, of full-time employment as a peace officer in lieu of the fingerprint cards. Such verification shall be signed by his/her employer. A peace officer is defined as any person who by virtue of his/her office or public employment is vested by law with a primary duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses, and has completed the training requirements of the Illinois Police Training Act. For purposes of this Section, officers, agents or employees of the federal government commissioned by federal statute to make arrests for violations of federal criminal laws and individuals holding a Class I or Class II Occupational License issued by the Illinois Gaming Board shall be considered peace officers;

2) Verification that the employee has completed the training required in subsection (b) above. If the employee's firearm training was completed more than two years before the request for a firearm authorization card, the employer shall submit evidence that the employee has qualified on the firing range within the one year preceding the request; and

3) The fee required in Section 1240.205 ~~105(d)(17)-of-the-Act~~.

d) The firearm authorization card shall be retained by the employee for the term of employment. Upon termination of employment, the card

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shall be returned to the Department by the employer. In the event an employee fails to return a firearm authorization card to the employer, the employer shall notify the Department in writing why the card was not returned.

e) No employee shall carry a firearm until the requirements of this Section have been satisfied.

f) If an employee is employed by more than one proprietary security force, that employee must possess a separate firearm authorization card for each force which issues him/her a weapon.

g) The Department may conduct an inspection to verify the information on the application prior to the proprietary security force being registered with the Department.

h) All armored car companies registered as proprietary security forces pursuant to this Section shall have all employees who are required to carry a firearm authorization card to complete classroom and range training in weapons on an annual basis and shall maintain a current criminal background check in each employee's file as well as a training certificate. The armored car company shall make these documents available to the Department upon request.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1240.40 Permanent Employee Registration Cards

a) Any person seeking employee registration under Section 80 of the Act shall file an application with the Department, on forms provided by the Department, along with the following:

1) Either:

A) Verification of fingerprint processing from the Illinois Department of State Police, or its designated agent. Effective October 1, 1995, applicants shall contact the Illinois Department of State Police, or its designated agent, for fingerprint processing. Out of state residents unable to utilize the State Police fingerprint process may submit to the Department one set of fingerprint cards issued by the Illinois Department of State Police and one set of fingerprint cards issued by the Federal Bureau of Investigation, accompanied by the specified processing fee pursuant to Section 1240.205 ~~105(d)(13)-of-the-Act; or~~

B2) Verification, on forms provided by the Department, of full-time employment as a peace officer in lieu of fingerprints. Such verification shall be signed by the employer. A peace officer is defined as any person who by virtue of his/her office or public employment is vested by law with a primary duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses and has

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satisfied the training requirements of the Illinois Police Training Act. For purposes of this Section, officers, agents or employees of the federal government commissioned by federal statute to make arrests for violations of federal criminal laws shall be considered peace officers;

23) One 1" x 1" photograph taken within the 3 months preceding application; and

34) The required registration fee specified in Section 1240.205 ~~of the Act~~ ^{of the Act}, made payable to the Department of Professional Regulation.

b) The application, verification of fingerprint processing and the registration fee shall be submitted to the Department prior to the applicant being scheduled to work.

c) If no record is found affecting the prints, the Department shall issue, to the applicant, a permanent employee registration card, which shall be valid for the period specified on the face of the card, and shall be renewable upon the conditions set forth in Section 1240.50 of this Part.

d) The employee registration card shall serve as proof to an employer that the bearer thereof is eligible for employment.

e) Persons who have no access to confidential or security information and who do not provide security services are exempt from employee registration. Examples of exempt employees include, but are not limited to, employees working in the capacity of ushers, ticket takers, elevator operators and reception personnel who have no access to confidential or security information. Confidential or security information is that which pertains to employee files, scheduling contracts or technical data.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1240.50 Renewals

a) Beginning with the May 1990 renewal, every individual license issued under the Act shall expire on May 31 every 3 years. The holder of a license may renew such license during the month preceding the expiration date by paying the required fee set forth in Section 1240.205 ~~of the Act~~ ^{of the Act} and providing proof of liability insurance as evidenced by a certificate of insurance from the insurer.

b) Beginning with the May 1990 renewal, every certificate of registration for an agency and every branch office and proprietary security force certificate issued under the Act shall expire on August 31 every 3 years. The holder of a certificate of registration may renew such certificate during the month preceding the expiration date thereof by paying the required fee.

c) Beginning with the May 1991 renewal, every employee registration card issued under the Act shall expire on May 31 every 3 years. The holder

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of the card may renew such card during the month preceding the expiration date by submitting the required fee to the Department.

d) It is the responsibility of each licensee and employee registration card holder to notify the Department of any change of address. Failure to receive a renewal form from the Department shall not constitute an excuse for failure to renew one's license or employee registration card or to pay the renewal fee. Practicing on an expired license or employee registration card is unlicensed practice and subject to discipline under Section 130 of the Act.

e) Every firearm authorization card shall expire on the date specified on the face of the card. The card shall be renewed upon proof that:

1) The employee has been requalified on the firing range within one year preceding the renewal date; and

2) The employee continues to be employed by the agency to which the card was issued.

f) No employer shall, after the expiration of a firearm authorization card, employ the holder thereof in an armed capacity.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1240.55 Endorsement

a) An applicant who is licensed under the laws of another jurisdiction shall file an application with the Department together with:

1) A certification from the licensing authority of the jurisdiction stating:

A) The time during which the applicant was licensed in that jurisdiction;

B) Whether the file on the applicant contains a record of any disciplinary action taken or pending;

C) A brief description of the examination taken and the grades received; and

D) That the jurisdiction has substantially equal rules of endorsement [225 ILCS 445/19]; and

2) A completed Education Certification Form, a completed Verification of Qualifying Experience Form or a completed Work History Form detailing the education and/or experience required by Section 75 of the Act; and

3) The required fee specified in Section 1240.205 ~~of the Act~~ ^{of the Act}.

b) If the Department questions the documentation provided by the applicant because of discrepancies or conflicts in information, or missing information, or if the Department needs further information to determine substantial equivalence of the applicant's qualifications for licensure, the applicant will be requested to submit further information as the Department deems necessary to make such determination.

Section 1240.110 Application for Examination and Licensure - Locksmith

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Effective October 1, 1995, applicants shall contact the Illinois Department of State Police or its designated agent for fingerprint processing. Out of state residents unable to utilize the State Police fingerprint process may submit to the Department one set of fingerprint cards issued by the Illinois Department of State Police and one set of fingerprint cards issued by the Federal Bureau of Investigation accompanied by the specified processing fee pursuant to Section 105(d)(3) of the Act or

Certification on forms provided by the Department, of full time employment as a peace officer in lieu of fingerprint cards. Such verification shall be signed by the employer. A peace officer is defined as any person who by virtue of his/her office or public employment is vested by law with a primary duty to maintain public order or to make arrests for offenses and has completed the training requirements of the Illinois Police Training Act (50-1069 705). For purposes of this Section, officers, agents or employees of the federal government commissioned by federal statute to make arrests for violations of federal criminal laws shall be considered peace officers.

2) Photographs taken within the 3 months preceding application.

4) Proof of at least \$1 million of liability insurance held by the applicant as evidenced by a certificate of insurance from the insurer; and

5) The required fees specified in Section 105 of the Act.

(Source: Repealed at 23 Ill. Reg. _____, effective _____)

Section 1240.110 Application for Examination and Licensure - Locksmith

a) An individual seeking licensure by examination as a locksmith shall make application to the Department, on forms provided by the Department, at least 60 days prior to the examination. The application form shall include questions necessary for the Department to establish that the applicant meets the qualifications for licensure specified in Section 75(d) of the Act.

b) The passing score on the examination is 70 or above.

c) Upon notification of successful completion of the examination, the applicant may apply to the Department for licensure. The application shall include:

1) Either:

A) Verification of fingerprint processing from the Illinois Department of State Police or its designated agent. Effective October 1, 1995, applicants shall contact the Illinois Department of State Police or its designated agent

Section 1240.60 Restoration

(Source: Amended at 23 Ill. Reg. _____, effective _____)

A licensee seeking restoration of a license issued after January 5, 1984, shall file an application on forms provided by the Department and shall also submit the following:

a) If the license has expired for less than 6 years, the application must be accompanied by the required fees specified in Section 1240.205 105(d)(7) of the Act, or an affidavit attesting to military service as provided in Section 1240.205 105(e) of the Act.

b) If the license has expired for more than 6 years, the application must be accompanied by a request to be scheduled for the next available examination, a fee covering the cost of the examination and the required restoration fee specified in Section 1240.205 105(d)(8) of the Act.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

SUBPART B: LOCKSMITH

Section 1240.100 Application for Licensure without Examination - Grandfather (Repealed)

a) An individual seeking licensure without examination as a locksmith shall make application to the Department, on forms provided by the Department, by January 1, 1998. The application shall include:

1) Three affidavits signed by an employer, or by colleagues, if the applicant was self-employed, indicating that the applicant was actively engaged as a locksmith or as a supervisor, manager or administrator of a locksmith business for 3 years out of the 5 years immediately preceding January 1, 1996. To determine such fulfillment, the following standards shall be applied:

A) The term "year" shall be 12 months with an average of at least 30 work days per month during which the applicant was engaged in full time employment equal to 1500 hours or more annually.

B) The practice of locksmithing includes, but is not limited to, the servicing, installing, originating, first key, re-coding, manipulation, or bypassing of mechanical or electronic locking devices at premises, vehicles, safes, vaults, safe deposit boxes, or automatic teller machines. (Section 5 of the Act)

2) Either:

A) Verification of fingerprint processing from the Illinois Department of State Police or its designated agent.

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for fingerprint processing. Out of state residents unable to utilize the State Police fingerprint process may submit to the Department one set of fingerprint cards issued by the Illinois Department of State Police and one set of fingerprint cards issued by the Federal Bureau of Investigation, accompanied by the specified processing fee pursuant to Section 1240.205 ~~§5(d)(1)-(3)-of-the-Act~~; or

- B) Verification, on forms provided by the Department, of full-time employment as a peace officer in lieu of fingerprint cards. Such verification shall be signed by the employer. A peace officer is defined as any person who by virtue of his/her office or public employment is vested by law with a primary duty to maintain public order or to make arrests for offenses and has completed the training requirements of the Illinois Police Training Act. For purposes of this Section, officers, agents or employees of the federal government commissioned by federal statute to make arrests for violations of federal criminal laws shall be considered peace officers;

- 2) 2 photographs 1" x 1" taken within the 3 months preceding application;
- 3) Proof of at least \$1 million of liability insurance held by the applicant as evidenced by a certificate of insurance from the insurer; and
- 4) The required fees ~~fee(s)~~ specified in Section 1240.205 ~~§5-of-the-Act~~.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1240.130 Permanent Employee Registration Cards

- a) Any person seeking employee registration under Section 80 of the Act shall file an application with the Department, on forms provided by the Department, along with the following:

1) Either:

- A) Verification of fingerprint processing from the Illinois Department of State Police or its designated agent. Effective October 1, 1995, applicants shall contact the Illinois Department of State Police or its designated agent for fingerprint processing. Out of state residents unable to utilize the State Police fingerprint process may submit to the Department one set of fingerprint cards issued by the Illinois Department of State Police and one set of fingerprint cards issued by the Federal Bureau of Investigation, accompanied by the specified processing fee pursuant to Section 1240.205 ~~§5(d)(1)-(3)-of-the-Act~~; or

- B) Verification, on forms provided by the Department, of

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full-time employment as a peace officer in lieu of fingerprints. Such verification shall be signed by the employer. A peace officer is defined as any person who by virtue of his/her office or public employment is vested by law with a primary duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses and has satisfied the training requirements of the Illinois Police Training Act. For purposes of this Section, officers, agents or employees of the federal government commissioned by federal statute to make arrests for violations of federal criminal laws shall be considered peace officers;

- 2) One 1" x 1" photograph taken within the 3 months preceding application; and
- 3) The required registration fee specified in Section 1240.205 ~~§5-of-the-Act~~, made payable to the Department of Professional Regulation.
- b) The application, verification of fingerprint processing and the registration fee shall be submitted to the Department prior to the applicant being scheduled to work.
- c) If no record is found affecting the prints, the Department shall issue to the applicant a permanent employee registration card, which shall be valid for the period specified on the face of the card and shall be renewable upon the conditions set forth in Section 1240.50 of this Part.
- d) The employee registration card shall serve as proof to an employer that the bearer thereof is eligible for employment.
- e) Persons who have no access to confidential or security information and who do not provide locksmith services are exempt from employee registration. Examples of exempt employees include, but are not limited to, employees working in the capacity of reception personnel who have no access to confidential or security information. Confidential or security information is that which pertains to employee files, key records, customer access codes or combinations or technical data.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1240.170 Renewals

- a) Beginning with the May 1999 renewal, every individual license issued under the Act shall expire on May 31 every 3 years. The holder of a license may renew such license during the month preceding the expiration date by paying the required fee set forth in Section 1240.205 ~~§5-of-the-Act~~ and providing proof of liability insurance as evidenced by a certificate of insurance from the insurer.
- b) Beginning with the May 1999 renewal, every certificate of registration

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for an agency and every branch office issued under the Act shall expire on August 31 every 3 years. The holder of a certificate of registration may renew such certificate during the month preceding the expiration date thereof by paying the required fee.

c) Beginning with the May 2000 renewal, every employee registration card issued under the Act shall expire on May 31 every 3 years. The holder of the card may renew such card during the month preceding the expiration date by submitting the required fee to the Department.

d) It is the responsibility of each licensee and employee registration card holder to notify the Department of any change of address. Failure to receive a renewal form from the Department shall not constitute an excuse for failure to renew one's license or employee registration card or to pay the renewal fee. Practicing on an expired license or employee registration card is unlicensed practice and subject to discipline under Section 130 of the Act.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1240.180 Endorsement

a) An applicant who is licensed under the laws of another jurisdiction shall file an application with the Department together with:

1) A certification from the licensing authority of the jurisdiction stating:

A) The time during which the applicant was licensed in that jurisdiction;

B) Whether the file on the applicant contains a record of any disciplinary action taken or pending;

C) A brief description of the examination taken and the grades received; and

D) That the jurisdiction has substantially equal rules of endorsement (see Section 100 of the Act); and

2) The required fee specified in Section 1240.205 of the Act.

b) If the Department questions the documentation provided by the applicant because of discrepancies or conflicts in information, or missing information, or if the Department needs further information to determine substantial equivalence of the applicant's qualifications for licensure, the applicant will be requested to submit further information as the Department deems necessary to make such determination.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1240.190 Restoration

A licensee seeking restoration of a license shall file an application on forms

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provided by the Department and shall also submit the following:

a) If the license has expired for 6 years or less, the application must be accompanied by the required fees specified in Section 1240.205 of the Act or an affidavit attesting to military service as provided in Section 1240.205 of the Act.

b) If the license has expired for more than 6 years, the application must be accompanied by a request to be scheduled for the next available examination, a fee covering the cost of the examination and the required restoration fee specified in Section 1240.205 of the Act.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

SUBPART C: GENERAL

Section 1240.200 Requests for Duplicate Certificates

a) Requests for duplicate certificates to replace ones that have been lost, stolen or destroyed shall be made in writing to the Department and shall be made by the individuals to whom the certificates were issued.

b) Any person requesting a duplicate firearm authorization card shall first file a report with the local police authority that specifies the circumstances under which the firearm authorization card was lost, stolen or destroyed.

c) Requests for a duplicate firearm authorization card shall be accompanied by an affidavit from the person making the request, specifying the date and with what police authority the above-mentioned police report was filed, and summarizing the circumstances under which the firearm authorization card was lost, stolen or destroyed. The fee, as required by Section 1240.205 of the Act, shall also accompany the request.

d) For purposes of this Section, the word "certificates" shall mean and include the following:

- 1) Individual licenses (Private Detective, Private Security Contractor and Private Alarm Contractor and Locksmith)
- 2) Certificates of Registration for an agency
- 3) Licensee Pocket Cards
- 4) Permanent Employee Registration Cards
- 5) Certification of Completion of Firearm Training
- 6) Firearm Authorization Card.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1240.205 Fees

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The following fees shall be paid to the Department and are not refundable:

a) Application Fees

- 1) The fee for application for a license as a private detective, security contractor, alarm contractor, or locksmith is \$500. In addition, applicants for an examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee.

- 2) The fee for application for an agency certificate is \$500.

- 3) The fee for application for a branch office certificate is \$200.

- 4) The fee for issuance of a permanent employee registration card is \$55.

- 5) The fee for issuance of a firearm authorization card is \$55.

- 6) The fee for issuance of an armed proprietary security force registration is \$20.

b) Renewal Fees

- 1) The fee for the renewal of a license shall be calculated at the rate of \$150 per year.

- 2) The fee for the renewal of an agency certificate is \$450.

- 3) The fee for the renewal of a branch office certificate is \$200.

- 4) The fee for the renewal of a permanent employee registration card is \$45.

- 5) The fee for the renewal of a firearm authorization card is \$45.

- 6) The fee for the renewal of an armed proprietary security force registration is \$20.

c) General Fees

- 1) The fee for the restoration of a license other than from inactive status is \$50 plus payment of all lapsed renewal fees; the fee for restoration from inactive status is the current renewal fee.

- 2) The fee for the issuance of a duplicate license, agency certificate of registration, permanent employee registration card, certification of completion of 20 Hour Basic Training, Certification of Firearm Training, firearm authorization card, or a certificate issued for a change of name or address, other than during the renewal period, is \$20. No fee is required for name and address changes on Department records when no duplicate license is issued.

- 3) The fee for reissuance of a firearm authorization card on an agency that has changed its name is \$10.

- 4) The fee for processing a fingerprint card by the State Police is the cost of processing, which shall be made payable to the State Police Services Fund and shall be remitted to the State Police for deposit into the Fund.

- 5) The fee for a certification of a licensee's record for any

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- 6) purpose is \$20.
The fee to have the scoring of an examination administered by the Department reviewed and verified is \$20, plus any fee charged by the testing service.
- 7) The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.
- 8) The fee for a roster of licensees or registrants shall be the actual cost of producing the roster.

(Source: Added at 23 Ill. Reg. _____, effective _____)

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Illinois Landscape Architecture Act of 1989
- 2) Code Citation: 68 Ill. Adm. Code 1275
- 3) Section Numbers: Proposed Action:
- | | |
|---------|-------------|
| 1275.40 | Amendment |
| 1275.60 | Amendment |
| 1275.75 | New Section |
| 1275.80 | Amendment |
- 4) Statutory Authority: Illinois Landscape Architecture Act of 1989 [225 ILCS 315]
- 5) A Complete Description of the Subjects and Issues Involved: Public Act 91-255, effective December 30, 1999, is the sunset reauthorization of the Illinois Landscape Architecture Act of 1989. Among its changes was elimination of the statutory fee Section of the Act, to be replaced with fees set by administrative rule; this proposed rulemaking adds Section 1275.75 to accomplish that change and reduces the renewal fee from \$100 to \$30 per year. Various technical revisions have also been made.
- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no impact on local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:
- Department of Professional Regulation
Attention: Jean A. Courtney
320 West Washington, 3rd Floor
Springfield IL 62786
217/785-0813 Fax #: 217/782-7645
- All written comments received within 45 days of this issue of the *Illinois Register* will be considered.
- 12) Initial Regulatory Flexibility Analysis:

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NOTICE OF PROPOSED AMENDMENTS

- A) Types of small businesses, small municipalities and not for profit corporations affected: Those providing the services of landscape architects.
- B) Reporting, bookkeeping or other procedures required for compliance:
None
- C) Types of professional skills necessary for compliance: Landscape architecture skills are necessary for licensure.
- 13) Regulatory Agenda on which this rulemaking was summarized: July 1999
- The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1275

THE ILLINOIS LANDSCAPE ARCHITECTURE ACT OF 1989

Section	
1275.10	Application for Registration Under Section 11(e) of the Act (Grandfather) (Repealed)
1275.20	Approved Programs
1275.30	Experience
1275.40	Application for Examination
1275.50	Examination
1275.60	Endorsement
1275.70	Renewal
1275.75	Fees
1275.80	Restoration
1275.90	Granting Variances

AUTHORITY: Implementing the Illinois Landscape Architecture Act of 1989 and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Emergency rules adopted at 15 Ill. Reg. 3324, effective February 11, 1991, for a maximum of 150 days; adopted at 15 Ill. Reg. 10091, effective June 24, 1991; amended at 16 Ill. Reg. 10458, effective June 22, 1992; amended at 21 Ill. Reg. 10597, effective June 1, 1998; amended at 23 Ill. Reg. _____, effective _____.

Section 1275.40 Application for Examination

- a) An applicant for examination shall file an application, on forms supplied by the Department, at least 120 days prior to an examination date. The application shall include:
 - 1) Certification of graduation from an approved landscape architecture program as set forth in Section 1275.20 of this Part;
 - 2) Two years of experience as defined in Section 1275.30 of this Part completed prior to application with the Department;
 - 3) A complete work history since graduation; and
 - 4) The fees required by Section 1275.75 of this Part ~~14(e)(1)~~ and ~~(2) of the Act~~.
- b) The Department shall accept CLARB certification verifying passage of the Landscape Architect Registration Examination (L.A.R.E.).
- c) Any person who is currently registered in good standing in Illinois shall not be admitted to an examination in Illinois. However, in no way shall this limit the Department's ability to require reexamination

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NOTICE OF PROPOSED AMENDMENTS

for restoration or enforcement purposes.

(Source: Amended at 23 Ill. Reg. _____, effective _____.)

Section 1275.60 Endorsement

- a) An applicant for registration as a landscape architect who is registered under the laws of another state or territory of the United States shall file an application with the Department, on forms provided by the Department, which includes:
 - 1) Certification, on forms provided by the Department, of a landscape architecture degree from a program approved by the Department in accordance with Section 1275.20 of this Part;
 - 2) Certification, on forms provided by the Department, of professional experience as set forth in Section 1275.30 of this Part;
 - 3) In lieu of the certifications required in subsections (a)(1) and (a)(2), the Department shall accept certification from the Council of Landscape Architectural Registration Boards;
 - 4) Certification, on forms provided by the Department, from the state or territory of the United States in which the applicant was originally licensed and the state in which the applicant predominantly practices and is currently licensed, stating:
 - A) The time during which the applicant was licensed;
 - B) Whether the file of the applicant contains any record of any disciplinary actions taken or pending; and
 - C) Examination(s) taken and examination score(s) received;
 - 5) A complete work history; and
 - 6) The required fee as set forth in Section 1275.75 ~~14(e)(3)~~ of the Act.
- b) The Department may require additional information to determine if the requirements in the state or territory were substantially equivalent to the requirements then in effect in Illinois at the time of application to determine whether the requirements of another state or territory together with education and professional experience qualifications of the applicant are substantially equivalent to the requirements in Illinois at the time of application. The Department, upon recommendation of the Board, shall determine substantial equivalency based on, but not limited to, certification from the CLARB; education, training, and experience, including, but not limited to, whether the applicant has achieved special honors or awards, has had articles published in professional journals, or has written textbooks relating to landscape architecture; and any other attribute the Director accepts as evidence that such applicant has outstanding and proven ability in landscape architecture. The Department shall either issue a registration by endorsement to the applicant or notify the applicant in writing of the reasons for the denial of the

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

application.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1275.75 Fees

The following fees shall be paid to the Department and are not refundable:

- a) Application Fees. The fee for application for a certificate of registration as a landscape architect is \$100. In addition, applicants for an examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee.

- b) Renewal Fees. The fee for the renewal of a certificate shall be calculated at the rate of \$30 per year.

c) General Fees.

- 1) The fee for the restoration of a certificate other than from inactive status is \$20 plus payment of all lapsed renewal fees, not to exceed \$200.
- 2) The fee for the issuance of a duplicate certificate, for the issuance of a replacement certificate for a certificate that has been lost or destroyed or for the issuance of a certificate with a change of name or address, other than during the renewal period, is \$20. No fee is required for name and address changes on Department records when no duplicate certificate is issued.
- 3) The fee for a certification of a registrant's record for any purpose is \$20.
- 4) The fee to have the scoring of an examination authorized by the Department reviewed and verified is \$20 plus any fees charged by the applicable testing service.
- 5) The fee for a wall certificate showing registration shall be the actual cost of producing the certificate.
- 6) The fee for a roster of persons registered as landscape architects in this State shall be the actual cost of producing the roster.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 1275.80 Restoration

- a) A person seeking restoration of a license which has expired for less than five (5) years shall have the license restored upon payment of

DEPARTMENT OF PROFESSIONAL REGULATION

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\$20 ~~40-90~~ plus all lapsed renewal fees, as set forth in Section 1275.75 ~~required by Section 14(a)(5) of the Act.~~

- b) A person seeking restoration of a license which has been placed on inactive status for less than five (5) years shall have the license restored upon payment of the renewal fee as set forth in Section 1275.75 ~~14(a)(4) of the Act.~~

- c) A person seeking restoration of a license after it has expired or been placed on inactive status for more than five (5) years shall file an application, on forms supplied by the Department, together with the fee required by Section 1275.75 ~~14(a) of the Act~~ and be scheduled for an interview before the Board. The person shall also submit either:
 - 1) Certification of active practice in another jurisdiction. Such certification shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of said active practice; or
 - 2) An affidavit attesting to military service as provided in Section 12 of the Act; or
 - 3) Proof of passage of the L.A.R.E. examination during the period the license was lapsed or on inactive status.

- d) Any person seeking restoration of a license within 2 years after discharge from military service pursuant to Section 12 of the Act will be required to pay only the current renewal.
- e) When the accuracy of any submitted documentation or the relevance or sufficiency of the coursework or experience is questioned by the Department or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the person seeking restoration of a license shall be requested to:
 - 1) Provide such information as may be necessary; and/or
 - 2) Appeal for an interview before the Board to explain such relevance or sufficiency, clarify information, or clear up any discrepancies or conflicts in information. Upon the recommendation of the Board and approval by the Department, an applicant shall have the license restored.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Minimum Safety Standards for Transportation of Gas and for Gas Pipeline Facilities

2) Code Citation: 83 Ill. Adm. Code 590

3) Section Numbers: Adopted Action:
590.10 Amendment

- 4) Statutory Authority: Implementing and authorized by Section 3 of the Illinois Gas Pipeline Safety Act [220 ILCS 20/3].

5) Effective Date of Amendment: October 1, 1999

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? Yes

- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's Springfield office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: April 9, 1999 at 23 Ill. Reg. 4125.

10) Has JCAR issued a Statement of Objections to this amendment? No

11) Difference between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? None required

13) Will this amendment replace an emergency amendment currently in effect?
No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendment: The Illinois Commerce Commission has adopted 83 Ill. Adm. Code 590 to incorporate by reference certain federal safety standards. This complies with Section 3 of the Illinois Gas Pipeline Safety Act, which requires the Commission's rules to be as inclusive and as stringent as the federal safety standards and compatible with the federal safety standards.

16) Information and questions regarding this adopted amendment shall be directed to:

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Conrad S. Rubinkowski
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
P.O. Box 19280
Springfield, IL 62794-9280
(217)785-3922

The full text of the adopted amendment begins on the next page:

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

TITLE 83: PUBLIC UTILITIES
 CHAPTER 1: ILLINOIS COMMERCE COMMISSION
 SUBCHAPTER d: GAS UTILITIES

PART 590

MINIMUM SAFETY STANDARDS FOR TRANSPORTATION
 OF GAS AND FOR GAS PIPELINE FACILITIES

Section
 590.10 Standards

AUTHORITY: Implementing and authorized by Section 3 of the Illinois Gas Pipeline Safety Act [220 ILCS 20/3].

SOURCE: Filed effective November 28, 1977; amended at 3 Ill. Reg. 5, p. 761, effective February 3, 1979; amended at 3 Ill. Reg. 11, p. 25, effective March 17, 1979; amended at 4 Ill. Reg. 1, p. 23, effective January 1, 1980; amended at 5 Ill. Reg. 6778, effective June 16, 1981; rules repealed, new rules adopted and codified at 7 Ill. Reg. 12858, effective September 16, 1983; amended at 8 Ill. Reg. 13195, effective July 16, 1984; amended at 10 Ill. Reg. 19405, effective November 15, 1986; amended at 11 Ill. Reg. 11733, effective July 1, 1987; amended at 12 Ill. Reg. 11707, effective July 15, 1988; recodified from 92 Ill. Adm. Code 1800 at 12 Ill. Reg. 12997; amended at 13 Ill. Reg. 16968, effective November 1, 1989; amended at 14 Ill. Reg. 10018, effective June 15, 1990; amended at 17 Ill. Reg. 12291, effective July 15, 1993; amended at 18 Ill. Reg. 11518, effective July 25, 1994; amended at 19 Ill. Reg. 13549, effective October 1, 1995; amended at 21 Ill. Reg. 8906, effective July 1, 1997; amended at 23 Ill. Reg. 11872, effective 01/01/1999.

Section 590.10 Standards

- a) The Illinois Commerce Commission adopts the standards contained in 49 CFR 191.23, 192, 193 and 199 as of January 1, 1999 ~~1997~~, as its minimum safety standards for the transportation of gas and for gas pipeline facilities.
- b) No later amendment or editions are incorporated by this Part.
- (Source: Amended at 23 Ill. Reg. 11872, effective 01/01/1999)

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 1) **Heading of the Part:** Telephone Assistance Programs
- 2) **Code Citation:** 83 Ill. Adm. Code 757
- 3) **Section Numbers:**
 757.100 Adopted Action:
 Amendment
 757.200 Amendment
 757.Exhibit A Amendment
 757.Exhibit B Amendment
 757.Exhibit C Amendment
 757.Exhibit D Amendment
 757.Exhibit E Amendment
- 4) **Statutory Authority:** Implementing Sections 13-301 and 13-301.1 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/13-301, 13-301.1 and 10-101].
- 5) **Effective Date of Amendments:** October 1, 1999
- 6) **Does this rulemaking contain an automatic repeal date?** No
- 7) **Do these amendments contain incorporations by reference?** Yes
- 8) **A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection:**
- 9) **Notice of Proposal Published in Illinois Register:** April 9, 1999 at 23 Ill. Reg. 4128
- 10) **Has JCAR issued a Statement of Objections to these amendments?** No
- 11) **Differences between proposal and final version:**
 Section 757.100(b): delete "initial" from the first sentence.
 Section 757.200(c)(1): delete "initial" from the first sentence.
 Section 757.Exhibit D: Include "not" in "Records show that...."
 Section 757.Exhibit E: Add "Connection" to item "UTSAP Assistance" and delete "initial".
 Section 757.Exhibit E: Add "UTSAP Monthly Assistance (Supplemental Assistance with Monthly Telephone Bills)"
- 12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR?** Yes

ILLINOIS COMMERCE COMMISSION
NOTICE OF ADOPTED AMENDMENTS

- 13) Will these amendments replace emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The FCC has recently modified requirements for participation in the federally funded Lifeline and Link Up programs. These changes have made it necessary to amend certain forms used in the state programs. The purpose of the proposed amendments is to reflect the format of federal forms. A number of corrections in the text of the rules are also being made at this time.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Conrad S. Rubinkowski
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
P.O. Box 19280
Springfield, IL 62794-9280
(217)785-3922

The full text of the adopted amendments begins on the next page:

ILLINOIS COMMERCE COMMISSION
NOTICE OF ADOPTED AMENDMENTS

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER f: TELEPHONE UTILITIES

PART 757
TELEPHONE ASSISTANCE PROGRAMS
SUBPART A: GENERAL PROVISIONS

Section
757.10 Definitions
757.15 Dispute Procedures

SUBPART B: LINK UP PROGRAM

Section
757.100 Link Up Service Requirement
757.105 Link Up Recovery Mechanism
757.110 Link Up Publicity
757.115 Link Up Application Procedure and Processing
757.120 Link Up Filing Requirements
757.125 Link Up Eligibility
757.130 Income Certification

SUBPART C: UNIVERSAL TELEPHONE SERVICE ASSISTANCE PROGRAM

Section
757.200 Service Requirement
757.205 UTSAP Funding
757.210 UTSAP Recovery
757.215 UTSAP Administrator
757.220 UTSAP Contribution Solicitation and Program Publicity
757.225 UTSAP Eligibility
757.230 UTSAP Application Procedure and Processing
757.235 UTSAP Income Certification
757.240 Recertification (Repealed)
757.245 UTSAP Filing Requirements

SUBPART D: STAFF LIAISON

Section
757.300 Staff Liaison

SUBPART E: LIFELINE SERVICE

Section
757.400 Lifeline Service requirement
757.405 Lifeline Recovery Mechanism

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

757.410 Lifeline Publicity
 757.415 Lifeline Application Procedures and Processing
 757.420 Lifeline Filing Requirements
 757.425 Lifeline Eligibility
 757.430 Income Certification and Recertification

EXHIBIT A LEC Quarterly Report to Commission
 EXHIBIT B Monthly LEC Waiver Supplemental Assistance Installation Charge and Contributions Report
 EXHIBIT C Quarterly UTSAP Administrator Report to Commission
 EXHIBIT D Lifeline Recertification Ineligibility Notice
 EXHIBIT E Link Up/Lifeline Programs Certification Form

AUTHORITY: Implementing Sections 13-301 and 13-301.1 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/13-301, 13-301.1, and 10-101].

SOURCE: Adopted at 13 Ill. Reg. 14366, effective October 1, 1989; amended at 14 Ill. Reg. 17923, effective October 15, 1990; emergency repealer at 15 Ill. Reg. 5082, effective March 25, 1991, for a maximum of 150 days; repealed at 15 Ill. Reg. 11929, effective August 12, 1991; adopted at 16 Ill. Reg. 17981, effective December 15, 1992; amended at 20 Ill. Reg. 15257, effective December 1, 1996; emergency amendments at 21 Ill. Reg. 16416, effective December 10, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 8810, effective May 9, 1998; amended at 23 Ill. Reg. 11875, effective 06/01/1999.

SUBPART B: LINK UP PROGRAM

Section 757.100 Link Up Service Requirement

- a) No later than January 1, 1998, each eligible telecommunications carrier shall participate in the "Link Up" program adopted by the FCC in 47 CFR 54.411 et seq. as of October 1, 1997. This incorporation does not include any later amendments or editions.
- b) As part of its participation in the program identified in subsection (a), each eligible telecommunications carrier shall implement a 50% waiver, of up to \$30+00, of the ~~initial~~ telephone service installation charge. The waiver shall be applicable to the primary service order, central office and premise visit components of the service connection charges and shall be provided to each qualifying low-income subscriber as specified in Section 757.125.
- c) In addition, each eligible telecommunications carrier shall offer any qualifying low-income subscriber the opportunity to enter into a deferred payment arrangement for the remaining installation charges, up to \$200. Eligible new subscribers shall be given no more than one year to retire the remaining installation charges, and the eligible telecommunications carrier shall refrain from applying interest charges to such amounts for such period.

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(Source: Amended at 23 Ill. Reg. 11875, effective 06/01/1999)

SUBPART C: UNIVERSAL TELEPHONE SERVICE ASSISTANCE PROGRAM

Section 757.200 Service Requirement

- a) Each LEC shall participate in the Universal Telephone Service Assistance Program (UTSAP) as required and authorized by Section 13-301.1 of the Public Utilities Act and as ordered by the Commission. All voluntary contributions received by a LEC under Section 757.205 from the date of initial participation until a determination is made by the Commission under Section 757.205(b) shall be forwarded to the UTSAP Administrator consistent with the provisions of Section 757.210(d). The UTSAP Administrator shall invest these funds in securities backed by the United States government.
- b) On July 1 of each year, the UTSAP Administrator shall file with the Commission a petition requesting the Commission to determine the amount of supplemental assistance, if any, the LECs shall provide each eligible new subscriber or eligible subscriber under the programs set forth in subsection (c) of this Section. The petition shall contain recommendations of the UTSAP Administrator as provided in Section 757.215(e)(5). The Commission may enter an order without a hearing; however, a hearing shall be held if requested by a party or by Staff within 30 days after the date the petition is filed, and a hearing may also be held on the Commission's or the Hearing Examiner's own motion. The Commission shall determine, subject to the availability of funds, the amount of supplemental assistance, if any, the LECs shall provide each eligible new subscriber or eligible subscriber under the programs set forth in subsection (c) of this Section.
- c) The UTSAP may provide assistance or, in the case of customers of eligible telecommunications carriers, supplement the assistance provided by the Link Up Program as described in Subpart B and/or the Lifeline Program as described in Subpart D through:
 - 1) a waiver of the ~~initial~~ telephone service installation charges for eligible new subscribers, which, in the case of eligible telecommunications carriers, is in addition to that provided in Section 757.100(b);
 - 2) a waiver of all or a portion of the local exchange service obligation of eligible subscribers or eligible new subscribers, which, in the case of eligible telecommunications carriers, is in the form of State Lifeline service support; or
 - 3) a combination of both subsections (c)(1) and (2) above as ordered by the Commission under subsections (b), (d) and (e).
- d) Limitation of eligibility
 - 1) If the Commission determines that a waiver of all or a portion of the local exchange service obligation should be provided by the UTSAP, in the form of State Lifeline service support or

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otherwise, the Commission may, if it deems necessary, limit eligibility under Section 757.425(a) to:

- A) one or more of the individual Proxy Programs identified in the definition of "Proxy Programs" in Section 757.10, or
- B) one or more subprograms within, or components of, an individual Proxy Program.

- 2) Any proposals to limit eligibility pursuant to this subsection (d) shall be made as part of the petition filed annually under subsection (b) of this Section.

- 3) The Commission shall adopt a proposal that limits eligibility for the Lifeline Program to one or more Proxy programs or subprograms or components thereof pursuant to this subsection (d) only if it finds that:

- A) participation in the Proxy Program, subprogram, or component thereof can be verified;
- B) the funds available to the UTSAP from voluntary contributions are sufficient and predictable, so as to permit the UTSAP to provide State Lifeline support to all subscribers or all new subscribers within the Proxy Program, subprogram, or component on an ongoing basis;
- C) the proposal will increase accessibility to telephone service;
- D) the proposal adequately considers the needs of and potential benefits to participants in the Proxy Programs; and
- E) the proposal establishes narrowly targeted qualification criteria that are based solely on income or factors directly related to income, consistent with 47 CFR 54.409 as of October 1, 1997. This incorporation does not include any later amendments or editions.

- e) The Commission, on its own motion, or based upon a petition filed by the UTSAP Administrator, may order the LECs to temporarily suspend payment of or temporarily reduce the amount of the supplemental assistance provided under the programs set forth in Section 757.200(c), if the total program costs exceed, or will exceed, the funds available from contributions specified in Section 757.205. If the Commission suspends or reduces the amount of payments under this Section, the Commission shall determine, subject to the availability of funds, the amount of supplemental assistance, if any, the LECs shall provide each eligible new subscriber or eligible subscriber under the programs set forth in subsection (c) of this Section.

(Source: Amended at 23 Ill. Reg. 11875, effective 06/01/1999)

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Section 757. EXHIBIT A LEC Quarterly Report to Commission

EXHIBIT A
Page 1 of 2

Company Mailing Address _____		Date of Submission Data Period: _____ Year _____ Quarter: <input type="checkbox"/> 1st <input type="checkbox"/> 2nd <input type="checkbox"/> 3rd <input type="checkbox"/> 4th Type of Filing: <input type="checkbox"/> Original <input type="checkbox"/> Correction			
Contact Name _____	Telephone _____				
Program	(a) Month: _____	(b) Month: _____	(c) Month: _____	(d) Quarter Totals: _____	(e) Year-to-Date Totals: _____
1.0 LINK-UP - FEDERAL					
1.1 Applications approved	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
1.2 Interest waived	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
2.0 LINK-UP - UTSAP SUPPLEMENTAL INSTALLATION WAIVER					
2.1 Applications approved	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
2.2 Supplemental installation charges waived	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
3.0 LIFELINE - FEDERAL					
3.1 Number of customers at end of month	_____	_____	_____	_____	_____
3.2 Applications approved during the month	_____	_____	_____	_____	_____
4.0 LIFELINE - UTSAP SUPPLEMENTAL MONTHLY ASSISTANCE					
4.1 Number of customers at end of month	_____	_____	_____	_____	_____
4.2 Applications approved during the month	_____	_____	_____	_____	_____
4.3 Total Supplemental Monthly Assistance	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

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NOTE: Each Local Telecommunications Carrier must file the original of this Exhibit A with the Chief Clerk of the Illinois Commerce Commission and forward a copy to the UTSAP Administrator and the Staff Liaison within 30 days after the end of each calendar quarter.

**For initial month of this program, include all existing Lifeline customers on this line.

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EXHIBIT-A
Page 1 of 4

QUARTERLY REPORT TO THE ILLINOIS COMMERCE COMMISSION

STATUS OF THE LINK-UP PROGRAM

ELIGIBLE TELECOMMUNICATIONS CARRIER:

FOR CALENDAR QUARTER ENDING:

MONTH	APPLICATIONS APPROVED	INSTALLATION-WAIVED	
		Charges	Interest
1)			
2)			
3)			
Total			
Year-to-Date Total			

NOTE: Each Eligible Telecommunications Carrier must file the original of this Exhibit A with the Chief Clerk of the Illinois Commerce Commission and forward a copy to the UTSAP Administrator and the Staff Liaison within 30 days after the end of each calendar quarter.

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Page-3-of-4

QUARTERLY REPORT TO THE ILLINOIS COMMERCE COMMISSION
STATUS OF THE UVSAP SUPPLEMENTAL INSTALLATION CHARGE
WAIVER

LOCAL EXCHANGE COMPANY:

FOR CALENDAR QUARTER ENDING:

MONTH	APPLICATIONS APPROVED	ADDITIONAL INSTALLATION CHARGES-WAIVED
1)		
2)		
3)		
Total		
Year-to-Date		

Note: Each Local Exchange Company must file the original of this Exhibit-A with the Chief Clerk of the Illinois Commerce Commission and forward a copy to the UVSAP Administrator and the Staff Liaison within 30 days after the end of each calendar quarter.

Note: The information supplied under "Additional Installation Charges-Waived" should correspond to the information provided on Exhibit-B for BECs with more than 35,000 access lines.

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Exhibit-A
Page-2-of-4

QUARTERLY REPORT TO THE ILLINOIS COMMERCE COMMISSION
STATUS OF THE LIFELINE PROGRAM

ELIGIBLE TELECOMMUNICATIONS CARRIER:

FOR CALENDAR QUARTER ENDING:

MONTH	APPLICATIONS --APPROVED--	MONTHLY CHARGES-WAIVED @\$5-25
1)		
2)		
3)		
Total		
Year-to-Date Total		

Note: Each Eligible Telecommunications Carrier must file the original of this Exhibit-A with the Chief Clerk of the Illinois Commerce Commission and forward a copy to the UVSAP Administrator and the Staff Liaison within 30 days after the end of each calendar quarter.

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QUARTERLY REPORT TO THE ILLINOIS COMMERCE COMMISSION

STATUS OF UTSAP EXPENDITURES

LOCAL EXCHANGE COMPANY: _____

FOR CALENDAR QUARTER ENDING: _____

e) UTSAP EXPENDITURE REPORT

	Current Quarter	Year to Date*
1. Telecommunications Expenses		
a. Billing and Data Processing	\$ _____	_____
b. Customer Notification and Bill Inserts	_____	_____
c. Certification Administration (LEC) and Contact Time	_____	_____
(Total of Lines 1-6 below)		
1. Salaries & Fringe Benefits	_____	_____
2. Materials	_____	_____
3. Postage	_____	_____
4. Transportation Expenses	_____	_____
5. Preprinted Forms	_____	_____
6. Other	_____	_____
d. Certification Administration (IDPA/SSI)	_____	_____
e. Service Representative Training	_____	_____
f. Other, please specify _____	_____	_____

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TOTALS	\$ _____	\$ _____
Less UTSAP Reimbursement Received	\$ _____	\$ _____
BALANCES	\$ _____	\$ _____

* Includes Current Quarter

NOTE: Each Local Exchange Company must file the original of this Exhibit A with the Chief Clerk of the Illinois Commerce Commission and forward a copy to the UTSAP Administrator and the Staff Liaison within 30 days after the end of each calendar quarter. Expenses associated with the Federal Lifeline and Link Up Programs should not be reported on this form.

LECs shall maintain supporting documentation in such a manner as to be able to readily identify the above expenses in appropriate subaccounts.

Quarterly "Totals" reported on this page should correspond to the sum of the monthly "Administrative Costs" reported on Exhibit B by LECs with over 35,000 access lines.

(Source: Amended at 23 Ill. Reg. 11875, effective 01-01-1999)

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Section 757, EXHIBIT B Monthly LEC Waiver Supplemental Assistance Installation Charge and Contributions Report

Monthly LEC Waiver Supplemental Assistance Installation Charge and Contributions Report

LEC _____

Month _____

Contributions:

- a) Total Contributions Billed
- b) Less Uncollectible Contributions from previous months
- c) Total Contributions

Supplemental Assistance Installation Charges and Costs:

Total Supplemental Additional Installation Charges Waived (Exhibit A, line 2.2 page 3 of 4)

b) Total Monthly Supplemental Assistance (Exhibit A, line 4.3)

c) Total Supplemental Assistance

Amount Due from UTSAP Administrator (Supplemental Assistance exceeds Waivers-exceed Contributions)

or

Amount to be Remitted to UTSAP Administrator (Contributions exceed Supplemental Assistance Waivers)

Administrative Costs

Total UTSAP Expenditures (Exhibit A, page 24 of 24 "Totals")

Note: Exhibit B is to be forwarded monthly to the UTSAP Administrator by LECs with more than 35,000 access lines and quarterly by LECs with fewer than 35,000 access lines.

(Source: Amended at 23 Ill. Reg. 11875, effective 01/01/1999)

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Section 757.EXHIBIT C Quarterly UTSAP Administrator Report to Commission

Exhibit C

Quarterly UTSAP Administrator Report

For Calendar Quarter Ending _____

1. Balance in Pool at Beginning of Quarter _____

Total Contributions to UTSAP

- a) Billed by LECs _____
- b) Directly to UTSAP Administrator _____
- c) Interest Earned _____
- d) Less Uncollected Contributions _____

2. Total Contributions _____

Total Costs

a) LEC Supplemental
Installation Charge Waivers _____b) LEC Supplemental Monthly
Assistance _____

c) LEC Administrative Expenses _____

d) UTSAP Administrator Expenses _____

3. Total Costs _____

4. Balance in Pool at End of Quarter
(Line 1 plus Line 2 minus Line 3) _____(Source: Amended at 23 Ill. Reg. 11 075, effective
01/01/1994)

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Section 757.EXHIBIT D Lifeline Recertification Ineligibility Notice

Exhibit D
Page 1 of 2NOTICE OF REMOVAL FROM THE
LIFELINE WAIVER PROGRAM

LEC (UTILITY) NAME _____

LEC PHONE # _____

Customer Name _____

Address _____

City, State, Zip _____

Phone Number _____

Account Number _____

Records show that you are not receiving benefits under one of the following programs:

Food Stamps
Medicaid
Supplemental Security Income
Federal Public Housing Assistance
Low-Income Home Emergency Assistance Program

You will therefore be removed from the Lifeline Program.

TO AVOID REMOVAL IF YOU ARE STILL RECEIVING BENEFITS

1. If you are still receiving benefits under one of the above listed programs, call the applicable agency.
2. If the agency has your name on their master list, then call your LEC.

IF YOU NEED TO REAPPLY

1. If you reapply for benefits under one of the programs listed above and the agency grants your application before (Date) _____, call your LEC to have your eligibility checked.

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Exhibit D
Page 2 of 2

2. If your application is granted by the agency after (Date) _____, you can reapply for the Lifeline benefits by calling your LEC.
3. There will be no retroactive Lifeline benefits between the time that your benefits are discontinued and the time that your application is approved.

REMOVAL IN ERROR

If you believe that the agency has improperly terminated you from one of the listed programs, you must resolve this with the applicable agency.

If your benefits are continued while the dispute is pending, your Lifeline benefits will also be continued.

If your benefits are not continued while the dispute with the applicable agency is pending, you will not receive Lifeline benefits until you have won your appeal.

Call your LEC to let them know if your benefits are being continued and/or if you have won your appeal.

There will be no retroactive Lifeline benefits between the time that your benefits are discontinued and the time that your application is approved.

(Source: Amended at 23 Ill. Reg. 11875, effective 01/01/1999)

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Section 757. EXHIBIT E Link Up/Lifeline Programs Certification Form

Exhibit E

ELIGIBLE TELECOMMUNICATIONS CARRIERS
LINK UP/LIFELINE PROGRAMS
CERTIFICATION FORM

NAME _____ DATE ISSUED ____/____/____

ADDRESS _____ APARTMENT _____

CITY _____ ZIP CODE _____

COUNTY _____ AGE _____

SOCIAL SECURITY NO. _____

PUBLIC AID CASE NUMBER _____

For which benefits do you wish to apply?

- Link Up Connection Fee Assistance (waiver of up to 50% of the initial telephone connection fee)
- Lifeline Local Exchange Service Assistance (Assistance) with monthly telephone bills
- UTSAP Connection Assistance (Supplemental ~~Initial~~ Telephone Connection Fee Assistance)
- UTSAP Monthly Assistance (Supplemental Assistance with Monthly Telephone Bills)

Are you a participant as of this date of application in one of the programs listed below?

In which program(s) do you currently participate?

- Food Stamps
- Medicaid
- Supplemental Security Income (SSI)
- Federal Housing Assistance Program
- Low-Income Home Energy Assistance Program (LIHEAP)

Under penalty of perjury, I confirm that I participate in the above stated program(s). I will notify / provider of local exchange service in the event I cease to participate in the program(s). By my signature below, I give the

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Social Security Administration permission to inform my local exchange telephone company whether or not I am entitled to Supplemental Security Income benefits as of the date of this application.

SIGNED _____ DATE _____

(Source: Amended at 23 Ill. Reg. 11875, effective 06/01/1999)

ENVIRONMENTAL PROTECTION AGENCY

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- 1) Heading of the Part: Access to Public Records of the Illinois Environmental Protection Agency
- 2) Code Citation: 2 Ill. Adm. Code 1828

3) Section Numbers:	Adopted Action:
1828.101	New
1828.102	New
1828.201	New
1828.202	New
1828.203	New
1828.301	New
1828.302	New
1828.303	New
1828.304	New
1828.401	New
1828.402	New
1828.403	New
1828.404	New
1828.405	New
1828.406	New
1828.501	New
1828.502	New
1828.503	New
1828.504	New
1828.505	New
1828.601	New
1828.602	New
1828.603	New

- 4) Statutory Authority: Section 3(g) of the Freedom of Information Act, [5 ILCS 140/3(g)]
- 5) Effective Date of Rule: September 20, 1999
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rule contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: Not applicable, pursuant to Section 5-15 of the Illinois Administrative Procedure Act, [5 ILCS 100/5-15], and Section 100.810 of the Secretary of State's regulations addressing rulemaking [1 Ill. Adm. Code 100.810]

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- 10) Has JCAR issued a Statement of Objections to this rule? JCAR review is not required.
- 11) Difference between proposal and final version: No proposal (Not applicable pursuant to Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15] and Section 100.810 of the Secretary of State's regulations addressing rulemaking [1 Ill. Adm. Code 100.810])
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were required.
- 13) Will this rule replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rule: This Part sets forth procedures and policy of the Illinois Environmental Protection Agency, pursuant to the Illinois Freedom of Information Act, for making Agency public records available for public inspection and for protecting legitimate interests in confidentiality. This Part, effective on the date stated in this Notice, replaces Parts 1826 and 1827 [1 Ill. Adm. Code 1826, 1827], the already-promulgated Agency rules implementing the Freedom of Information Act. However, compliance with the procedures set forth in this Part is required only on and after January 1, 2000, to allow all parties time to implement the Part (See Section 1828.101(d)). For this reason, Parts 1826 and 1827 will remain on the books for this period. The Agency intends to repeal Parts 1826 and 1827 effective December 31, 1999.

- 16) Information and questions regarding this adopted rule shall be directed to:

Judith S. Dyer
Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
217/782-5544

The full text of the adopted rule begins on the next page:

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED RULES

TITLE 2: GOVERNMENTAL ORGANIZATIONS
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER XIV: ENVIRONMENTAL PROTECTION AGENCY

PART 1828

ACCESS TO PUBLIC RECORDS OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

SUBPART A: INTRODUCTION

Section
1828.101 Summary, Purpose and Compliance Date
1828.102 Definitions

SUBPART B: CLASSIFICATION OF PUBLIC RECORDS

Section
1828.201 Public Records that Shall be Disclosed
1828.202 Public Records that Shall Not be Disclosed
1828.203 Public Records that May be Disclosed to Governmental Requesters

SUBPART C: PROCEDURES FOR REQUESTING PUBLIC RECORDS FROM THE AGENCY

Section
1828.301 Submittal of Requests for Public Records
1828.302 Form of Requests for Public Records
1828.303 Information to be Provided in Requests for Public Records
1828.304 Requests for Public Records Relating to Pending Litigation

SUBPART D: PROCEDURES FOR CLAIMING AND DETERMINING THAT PUBLIC RECORDS ARE EXEMPT FROM DISCLOSURE

Section
1828.401 Claims by Submitters that Public Records are Exempt from Disclosure
1828.402 Agency Review of Claims of Exemption from Disclosure
1828.403 Agency Actions Following a Determination that a Public Record is Not Exempt from Disclosure
1828.404 Agency Actions Following a Determination that a Public Record is Exempt from Disclosure
1828.405 Review of Agency Determination
1828.406 Agency's Treatment of Public Record Claimed or Determined to be Exempt from Disclosure

SUBPART E: AGENCY RESPONSE TO REQUESTS FOR PUBLIC RECORDS

Section

ENVIRONMENTAL PROTECTION AGENCY

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- 1828.501 Timeline for Agency Response
 1828.502 Requests for Public Records that the Agency Considers Unduly Burdensome
 1828.503 Requests for Public Records that Require Electronic Retrieval
 1828.504 Denials of Requests for Public Records
 1828.505 Appeals of Denials

SUBPART F: PROCEDURES FOR PROVIDING PUBLIC RECORDS TO REQUESTERS

Section

- 1828.601 Inspection of Public Records at the Agency
 1828.602 Fees for Public Records
 1828.603 Reduction and Waiver of Fees

APPENDIX A FEE SCHEDULE FOR DUPLICATION OF PUBLIC RECORDS

AUTHORITY: Implementing and authorized by Section 3(g) of the Freedom of Information Act [5 ILCS 140] and implementing Section 7 of the Illinois Environmental Protection Act [415 ILCS 5].

SOURCE: Adopted at 23 Ill. Reg. 11895, effective SEP 24 1999.

AGENCY NOTE: These rules take effect on the effective date stated above but, pursuant to Section 1828.101(d), compliance is not required until January 1, 2000.

SUBPART A: INTRODUCTION

Section 1828.101 Summary, Purpose and Compliance Date

- a) This Part states the policy of the Illinois Environmental Protection Agency (Agency) for making its public records available for reasonable public inspection while, at the same time, protecting legitimate interests in confidentiality.
- b) This Part:
- 1) Establishes the following classifications for public records in the Agency's possession:
 - A) Public records which shall be disclosed;
 - B) Public records which shall not be disclosed; and
 - C) Public records which may be disclosed to governmental requesters;
 - 2) Contains the procedures by which requesters may obtain public records in the Agency's possession; and
 - 3) Contains the procedures for claiming and determining that public records submitted to the Agency are exempt from disclosure.
- c) In determining whether a public record is a trade secret and therefore exempt from disclosure, the Agency shall follow the rules set forth at

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35 Ill. Adm. Code 120, promulgated by the Illinois Pollution Control Board.

- d) Compliance with the procedures set forth in this Part is required on and after January 1, 2000. This delayed compliance date is established to allow the Agency, requesters and submitters time to implement the procedures of this Part. This Part shall apply to any request or submittal pending before the Agency as of January 1, 2000.

Section 1828.102 Definitions

Terms not defined in this Section shall have the same meaning as in the Freedom of Information Act [5 ILCS 140], the Environmental Protection Act [415 ILCS 5] and regulations promulgated by the Pollution Control Board. The following definitions are applicable for purposes of this Part:

"Act" means the Environmental Protection Act [415 ILCS 5].

"Agency" means the Illinois Environmental Protection Agency as established by the Act.

"Board" means the Pollution Control Board as established by the Act.

"Department", when a particular entity is not specified, means (i) in the case of a function to be performed on or after July 1, 1995 (the effective date of the Department of Natural Resources Act), either the Department of Natural Resources or the Department of Commerce and Community Affairs, whichever, in the specific context, is the successor to the Department of Energy and Natural Resources under the Department of Natural Resources Act; or (ii) in the case of a function performed before July 1, 1995, the former Illinois Department of Energy and Natural Resources. (Section 3.07 of the Act).

"Director" means the Director of the Agency.

"FOIA" means the Freedom of Information Act [5 ILCS 140].

"Governmental requester" means any officer, employee or authorized representative of Illinois or of the United States concerned with implementation of state or federal environmental statutes and regulations.

"News media" means a newspaper or other periodical issued at regular intervals, a news service, a radio station, a television station, a community antenna television service, or a person or corporation engaged in making news reels or other motion picture news for public showing. (Section 2(f) of FOIA)

"Person" means any individual, corporation, partnership, firm,

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organization or association, acting individually or as a group. (Section 2(b) of FOIA).

"Public records" means all records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, recorded information and all other documentary materials, regardless of physical form or characteristics, having been prepared, or having been or being used, received, possessed or under the control of the Agency. (Section 2 (c) of FOIA).

"Requester" is any person who has submitted a written request for public records to the Agency.

"Submitter" means any person who provides to the Agency public records that may or may not be available for public inspection.

SUBPART B: CLASSIFICATION OF PUBLIC RECORDS

Section 1828.201 Public Records that Shall be Disclosed

Upon request meeting the requirements of this Part, the Agency shall disclose to the requester all public records requested except those that are exempt from disclosure pursuant to Section 1828.202.

Section 1828.202 Public Records that Shall Not be Disclosed

- a) The Agency shall not disclose the following public records:
 - 1) Public records exempt from disclosure pursuant to Section 7 of FOIA, including but not limited to:
 - A) Information specifically prohibited from disclosure by federal or State law or rules and regulations adopted under federal or State law;
 - B) Information that, if disclosed, would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy. Information exempted under this subsection includes, but is not limited to:
 - i) Files and personal information maintained with respect to clients, patients, residents, students or other individuals receiving social, medical, educational, vocational, financial, supervisory or custodial care or services directly or indirectly from federal agencies or public bodies;
 - ii) Personnel files and personal information maintained with respect to employees, appointees or elected

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officials of any public body or applicants for those positions;

- iii) Files and personal information maintained with respect to any applicant, registrant or licensee by any public body cooperating with or engaged in professional or occupational registration, licensure or discipline;
 - iv) Information required of any taxpayer in connection with the assessment or collection of any tax unless disclosure is otherwise required by State statute; and
 - v) Information revealing the identity of persons who file complaints with or provide information to administrative, investigative, law enforcement or penal agencies.
- C) Records compiled by any public body for administrative enforcement proceedings and any law enforcement or correctional agency for law enforcement purposes or for internal matters of a public body, but only to the extent that disclosure would:
- i) Interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency;
 - ii) Interfere with pending administrative enforcement proceedings conducted by any public body;
 - iii) Deprive a person of a fair trial or an impartial hearing;
 - iv) Unavoidably disclose the identity of a confidential source or confidential information furnished only by the confidential source;
 - v) Disclose unique or specialized investigative techniques other than those generally used and known or disclose internal documents of correctional agencies related to detection, observation or investigation of incidents of crime or misconduct;
 - vi) Constitute an invasion of personal privacy under subsection (b) of this Section;
 - vii) Endanger the life or physical safety of law enforcement personnel or any other person; or
 - viii) Obstruct an ongoing criminal investigation.
- D) Criminal history record information maintained by State or local criminal justice agencies, except the following which shall be open for public inspection and copying:
- i) Chronologically maintained arrest information, such as traditional arrest logs or blotters;
 - ii) The name of a person in the custody of a law enforcement agency and the charges for which that person is being held;
 - iii) Court records that are public;
 - iv) Records that are otherwise available under State or

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- local law; or
- v) Records in which the requesting party is the individual identified, except as provided under subsection (a)(1)(C)(vii) of this Section.

"Criminal history record information" means data identifiable to an individual and consisting of descriptions or notations of arrests, detentions, indictments, informations, pre-trial proceedings, trials, or other formal events in the criminal justice system or descriptions or notations of criminal charges (including criminal violations of local municipal ordinances) and the nature of any disposition arising therefrom, including sentencing, court or correctional supervision, rehabilitation and release. The term does not apply to statistical records and reports in which individuals are not identified and from which their identities are not ascertainable, or to information that is for criminal investigative or intelligence purposes;

- F) Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body. The exemption provided in this subsection extends to all those records of officers and agencies of the General Assembly that pertain to the preparation of legislative documents;

- F) Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or information are proprietary, privileged or confidential, or where disclosure of the trade secrets or information may cause competitive harm, including all information determined to be confidential under Section 4002 of the Technology Advancement and Development Act. Nothing contained in this subsection shall be construed to prevent a person or business from consenting to disclosure;

- G) Proposals and bids for any contract, grant, or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contractor agreement with the body, until an award or final selection is made. Information prepared by or for the body in preparation of a bid solicitation shall be exempt until an award or final selection is made;

- H) Valuable formulae, designs, drawings and research data obtained or produced by any public body when disclosure could reasonably be expected to produce private gain or public loss;

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- I) Test questions, scoring keys and other examination data used to administer an academic examination or determined the qualifications of an applicant for a license or employment;
- J) Architects' plans and engineers' technical submissions for projects not constructed or developed in whole or in part with public funds and for projects constructed or developed with public funds, to the extent that disclosure would compromise security;
- K) Minutes of meetings of public bodies closed to the public as provided in the Open Meetings Act until the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act;
- L) Communications between a public body and an attorney or auditor representing the public body that would not be subject to discovery in litigation, and materials prepared or compiled by or for a public body in anticipation of a criminal, civil or administrative proceeding upon the request of an attorney advising the public body, and materials prepared or compiled with respect to internal audits of public bodies;
- M) Administrative or technical information associated with automated data processing operations, including but not limited to software, operating protocols, computer program abstracts, file layouts, source listings, object modules, load modules, user guides, documentation pertaining to all logical and physical design of computerized systems, employee manuals, and any other information that, if disclosed, would jeopardize the security of the system or its data or the security of materials exempt under this Section;
- N) Documents or materials relating to collective negotiating matters between public bodies and their employees or representatives, except that any final contract or agreement shall be subject to inspection and copying;
- O) Drafts, notes, recommendations and memoranda pertaining to the financing and marketing transactions of the public body. The records of ownership, registration, transfer, and exchange of municipal debt obligations, and of persons to whom payment with respect to these obligations is made;
- P) The records, documents and information relating to real estate purchase negotiations until those negotiations have been completed or otherwise terminated. With regard to a parcel involved in a pending or actually and reasonably contemplated eminent domain proceeding under Article VII of the Code of Civil Procedure, records, documents and information relating to that parcel shall be exempt except as may be allowed under discovery rules adopted by the Illinois Supreme Court. The records, documents and

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Information relating to a real estate sale shall be exempt until a sale is consummated;

- Q) Information related solely to the internal personnel rules and practices of a public body;
 - R) Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act;
 - S) Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act; and
 - T) Information that would disclose or might lead to the disclosure of secret or confidential information, codes, algorithms, programs or private keys intended to be used to create electronic or digital signatures under the Electronic Commerce Security Act (Section 7 of FOIA); or
- 2) Public records that are exempt from disclosure pursuant to Section 7 of the Act.

- b) In determining whether a public record is exempt from disclosure, the Agency shall follow the procedures set forth in Subpart D of this Part.

Section 1828.203 Public Records that May be Disclosed to Governmental Requesters

- a) Any information accorded confidential treatment may be disclosed or transmitted to other officers, employees or authorized representatives of this State or of the United States concerned with or for the purposes of carrying out this Act or federal environmental statutes and regulations; provided, however, that such information shall be identified as confidential by the Agency, the Board, or the Department, as the case may be. Any confidential information disclosed or transmitted under this provision shall be used for the purposes stated herein. (Section 7(e) of the Act).
- b) Governmental requesters seeking confidential information must demonstrate that they qualify under subsection (a) of this Section to obtain such information.

SUBPART C: PROCEDURES FOR REQUESTING PUBLIC RECORDS FROM THE AGENCY

Section 1828.301 Submittal of Requests for Public Records

Any request for public records must be submitted to the applicable FOIA sector or sectors at the Agency. The Agency has 6 FOIA sectors, located in the Bureau of Air, Bureau of Land (which also handles noise-related matters), Bureau of Water, Division of Public Water Supplies, Office of Chemical Safety, and Division of Legal Counsel. If a requester seeks public records from more than one FOIA sector, a separate written request for the public records must be submitted to each applicable FOIA sector. If a requester is uncertain as to

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which FOIA sector may possess the public records, the written request should be submitted to the Director's Office. Written requests should be sent to:

Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62794-9276
Attn: _____, FOIA Sector
E-mail Address: FOIA.epa.state.il.us

Section 1828.302 Form of Requests for Public Records

Requests for public records must be made in writing. Requests should state that the public records are being sought under the provisions of FOIA. Written requests may be sent by mail, facsimile or electronic transmittal.

Section 1828.303 Information to be Provided in Requests for Public Records

A request for public records should include:

- a) The complete name, mailing address and telephone number of the requester;
- b) As specific a description as possible of the public records sought. Requests that the Agency considers overly broad or categorical may be denied in accordance with Section 1828.502;
- c) A statement as to the requested medium and format for the Agency to use in providing the public records sought, for example paper, specific types of digital or magnetic media, or videotape;
- d) A statement as to the requested manner for the Agency to use in providing the public records sought, for example for inspection at Agency headquarters in Springfield or by providing copies; and
- e) A statement as to whether the requester needs certified copies of all or any portion of the public records, including a reference to the specific documents that require certification.

Section 1828.304 Requests for Public Records Relating to Pending Litigation

If the request relates to information that is the subject of pending proceedings before the Board or the courts, the Agency will request that the requester give to the Agency notice of service of the request on all parties to the proceeding before the Agency will respond. This Section shall not apply to rulemaking proceedings before the Board under the Act except adjusted standard proceedings.

SUBPART D: PROCEDURES FOR CLAIMING AND DETERMINING THAT PUBLIC RECORDS ARE EXEMPT FROM DISCLOSURE

Section 1828.401 Claims by Submitters that Public Records are Exempt from Disclosure

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- a) A claim that a public record is exempt from public disclosure pursuant to Section 1828.202 must be made at the time of submittal of the public record.
- b) A claim that a public record is exempt from public disclosure must include:
- 1) A claim letter, stating that the public record is exempt from public disclosure pursuant to Section 1828.202, identifying all exemptions that apply, and briefly describing the public record;
 - 2) A justification for the claim, including:
 - A) If the public record is a subsequent version of a public record previously granted exempt status by the Agency, a certified statement indicating:
 - i) The date of submission of the previous public record; and
 - ii) That the previous justification remains applicable to the current submission; or
 - B) If the submittal is not a subsequent version of a public record previously granted exempt status by the Agency, the following information:
 - i) Measures taken by the submitter to prevent disclosure of the public record;
 - ii) The rights of privacy, if any, that might be invaded by disclosure of the public record;
 - iii) The competitive value, if any, of the public record to the submitter; and
 - iv) Any other information that will support the claim for exemption from disclosure;
 - 3) A copy of the public record, marked in accordance with the requirements of subsection (c) of this Section; and
 - 4) If the submitter is currently a party in a proceeding before the Board or a court in which the information is relevant to the issues, the title of the proceeding, docket number, and, if applicable, identification of the court.
- c) The submitter must mark a public record or portions thereof claimed exempt from disclosure as follows:
- 1) Where the public record is claimed to be exempt from disclosure in its entirety, mark the public record with the words "Public Record Claimed Exempt" in red ink on the face or front of the public record. If submitted in electronic format, the public record must be clearly marked in bold at the top or front of the public record with the words "Public Record Claimed Exempt"; or
 - 2) Where less than the entire public record is claimed to be exempt from disclosure:
 - A) Mark the public record with the words "Public Record Claimed Exempt - in Part" in red ink on the face or front of the public record. If submitted in electronic format, the public record must be clearly marked in bold at the top or front of the public record with the words "Public Record

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- Claimed Exempt - in Part";
- B) Indicate on the face or beginning of the public record which portion of the public record is claimed to be exempt from disclosure;
- C) Mark every portion of the public record which is claimed to be exempt from disclosure with the words "Public Record Claimed Exempt"; and
- D) Furnish the Agency with a second copy of the public record that is marked in accordance with (A) and (B) of this subsection and from which the portion of the public record that is claimed to be exempt from disclosure is deleted.
- Section 1828.402 Agency Review of Claims of Exemption from Disclosure**
- a) The Agency shall review a claim that a public record is exempt from disclosure when the Agency determines that any of the following criteria applies:
- 1) There is reasonable anticipation of requests or an actual request from the public for disclosure of the public record;
 - 2) To facilitate public participation in proceedings before the Agency where notice and comment periods are short relative to the time required for a final determination in accordance with the requirements of this Part;
 - 3) There is reasonable doubt that the public record is exempt from disclosure and there has been a practice, on the part of the submitter of the public record, of indiscriminately claiming that public records submitted to the Agency are exempt from disclosure;
 - 4) A specific regulation requires that a determination of whether the public record is exempt from disclosure be made at the time the public record is submitted to the Agency; or
 - 5) Determination of the validity of the claim will facilitate the timely performance of Agency responsibilities.
- b) Following a determination that review of a claim is required under subsection (a) of this Section, the Agency shall review the claim for completeness. If the claim fails to meet all of the requirements of Section 1828.401, the Agency shall so notify the submitter in writing, within 30 days of the date that the Agency determines that review of the claim is required under subsection (a) of this Section. In such notice, the Agency must identify the deficiency or deficiencies in the claim and provide the opportunity to cure the deficiency or deficiencies within 10 business days of the date of the notification letter.
- c) In the absence of a contemporaneous FOIA request, the Agency shall determine whether the public record is exempt from disclosure within 45 days of the date that the Agency finds a claim to be complete in accordance with subsection (b) of this Section.
- d) In the absence of a contemporaneous FOIA request, the submitter may

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extend the time period for the Agency's decision by submitting a written waiver of the decision deadline to the Agency.

Section 1828.403 Agency Actions Following a Determination that a Public Record is Not Exempt from Disclosure

- a) If the Agency determines, in response to a claim of exemption from disclosure, that no exemption applies, the Agency shall deny the claim and shall give written notice of such denial to the submitter of the public record pursuant to subsection (b) of this Section.
- b) Written notice of the denial of a claim of exemption from disclosure shall be by certified mail, return receipt requested, and shall contain the following information:
 - 1) The name and title or position of the person responsible for the determination;
 - 2) A statement of the Agency's reason for denying the claim;
 - 3) A notification of the availability of review of the Agency's decision pursuant to the procedures prescribed in Section 1828.405; and
 - 4) A notification that the Agency will cease protecting the public record or the portion claimed exempt from disclosure unless the Agency is served with notice of the filing of a petition for review within 35 days from the date of notice to the submitter.

Section 1828.404 Agency Actions Following a Determination that a Public Record is Exempt from Disclosure

If the Agency determines, in response to a claim of exemption from disclosure, that a public record or any portion thereof is exempt from disclosure, the Agency shall grant the claim and shall give written notice of such granting by first class mail to the submitter of the public record.

Section 1828.405 Review of Agency Determination

- a) A submitter who is adversely affected, in whole or in part, by a determination of the Agency pursuant to this Part may appeal the denial, within 35 days of the date of the Agency's final determination, to the Director of the Agency by filing a notice of appeal.
- b) The notice of appeal:
 - 1) must be made in writing;
 - 2) must be clearly marked "APPEAL OF CLAIM OF EXEMPTION FROM DISCLOSURE"; and
 - 3) must include a copy of the denial received by the submitter and a statement of the reasons that the claim should be granted on appeal.
- c) Within 7 working days after receipt of a written notice of appeal, the Director shall notify the submitter, by certified mail, return-receipt

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requested, either that the Agency's denial has been confirmed or that the submitter's claim of exemption from disclosure is granted.

- d) In reviewing the decision, the Director shall consider:

- 1) Whether the procedures in this Part have been correctly applied; and
- 2) Whether additional information available to the Director supports exempting the public record from disclosure.
- e) If the Director confirms the Agency's denial, the submitter may petition the Circuit Court for review within 35 days of the date of the Agency's final determination.
- f) In instances of a contemporaneous claim of exemption from disclosure and FOIA request, the Agency, if properly served with notice of the filing of a petition for review of its determination on the claim of exemption from disclosure, shall notify the requester of such action.
- g) The Agency shall continue to protect the public record or the portion thereof that is claimed exempt from disclosure pending the exhaustion or lapse of the appeal rights of the submitter.
- h) The failure of the Agency to make a final determination within the time limits prescribed in this Part may be deemed to be a denial for purposes of appeal. If after 35 days no appeal is taken, the public record will no longer be protected.

Section 1828.406 Agency's Treatment of Public Record Claimed or Determined to be Exempt from Disclosure

- a) Where any public record, or portion thereof, is determined to be exempt from disclosure, the Agency shall:
 - 1) Mark the public record or portion thereof, or the public record file, accordingly;
 - 2) Segregate the public record or portion thereof from public records that are open to public inspection;
 - 3) Keep the public record or portion thereof secure from unauthorized access;
 - 4) Allow the public access to the claim letter and, if only a portion is exempt, to a copy of the public record with the exempt portion deleted; and
 - 5) Limit access to the public record or portion thereof to employees and officers who are authorized to review such public records.
- b) The Agency shall insure that all authorized employees and officers are given notice of the restrictions contained in this Part on disclosure to and use by the public. No Agency officer, employee, or authorized representative may disclose, except as authorized by this Subpart, or use for private gain or advantage, any public record or portion thereof that is determined to be exempt from disclosure.
- c) The Agency shall manage any public record or portion thereof claimed to be exempt from disclosure as exempt pending disposition of the claim.

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SUBPART E: AGENCY RESPONSE TO REQUESTS FOR PUBLIC RECORDS

Section 1828.501 Timeline for Agency Response

- a) Except as stated in subsection (b) below, the Agency will respond to any written request for public records within 7 working days of receipt of the request. Failure to respond to a written request within 7 working days after its receipt shall be considered a denial of the request. (Section 3 (c) of FOIA).
- b) The time limits prescribed in subsection (a) of this Section may be extended for an additional 7 working days for any of the following reasons:
 - 1) The requested records are stored in whole or in part at other locations than the office having charge of the requested records;
 - 2) The request requires the collection of a substantial number of specified records;
 - 3) The request is couched in categorical terms and requires an extensive search for the records responsive to it;
 - 4) The requested records have not been located in the course of routine search and additional efforts are being made to locate them;
 - 5) The requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under Section 7 of FOIA or should be revealed only with appropriate deletions;
 - 6) The request for records cannot be complied with by the public body within the time limits prescribed by subsection (a) of this Section without unduly burdening or interfering with the operations of the Agency; or
 - 7) There is a need for consultation, which shall be conducted with all practicable speed, with another public body or among two or more components of a public body having a substantial interest in the determination or in the subject matter of the request. (Section 3(d) of FOIA).
- c) When additional time is required for any of the reasons set forth in subsection (b) of this Section, the Agency shall notify by letter the person making the written request within the time limits specified in subsection (a) of this Section of the reasons for the delay and the date by which the records will be made available or denial will be forthcoming. In no instance, may the delay in processing last longer than 7 working days. A failure to render a decision within 7 working days shall be considered a denial of the request. (Section 3(e) of FOIA)

Section 1828.502 Requests for Public Records that the Agency Considers Unduly Burdensome

- a) Requests calling for all records falling within a category shall be

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complied with unless compliance with the request would be unduly burdensome for the Agency and there is no way to narrow the request and the burden on the Agency outweighs the public interest in the information. Before invoking this exemption, the Agency shall extend to the requester an opportunity to confer with it in an attempt to reduce the request to manageable proportions. (Section 3(f) of FOIA). The amended request must be in writing.

- b) If the Agency determines that a request is unduly burdensome, it shall do so in writing, specifying the reasons why it would be unduly burdensome and the extent to which compliance will so burden the operations of the Agency. Such a response shall be treated as a denial of the request for information. (Section 3(f) of FOIA)
- c) Repeated requests for the same public records by the same person shall be deemed unduly burdensome. (Section 3(f) of FOIA).

Section 1828.503 Requests for Public Records that Require Electronic Retrieval

- a) A request for public records that requires electronic retrieval will be treated the same as any other request for public records, with the same timeline and extensions as set forth in Section 1828.501.
- b) The Agency will retrieve and provide electronic public records only in a format and medium that is available to the Agency at its headquarters.

Section 1828.504 Denials of Requests for Public Records

- a) The Agency shall deny requests for public records when:
 - 1) Compliance with the request would be unduly burdensome on the Agency, as determined pursuant to Section 1828.502, and the requester has not reduced the request to manageable proportions;
 - 2) The public records are exempt from disclosure pursuant to FOIA or Section 7 of the Act; or
 - 3) The public records are not available for inspection pursuant to 35 Ill. Adm. Code 120 (Identification and Protection of Trade Secrets).
- b) The denial of a request for public records must be in writing. The notification shall include:
 - 1) A description of the public records denied, the reason for the denial and the names and titles or positions of each person responsible for the denial;
 - 2) When a request for public records is denied on the grounds that the records are exempt under Section 7 of FOIA, the notice of denial shall specify the exemption claimed to authorize the denial. (Section 9(b) of FOIA); and
 - 3) A statement advising the requester of the right to appeal the denial by sending a written notice of appeal to the Director of the Agency in accordance with Section 1828.505.
- c) Unless the Agency has given written notice pursuant to Section

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1828.501(c), a requester may treat the Agency's failure to provide the public records within 7 working days of receipt of the written request as a denial for purposes of appeal to the Director.

- d) If the Agency has given written notice pursuant to Section 1828.501(c), failure to respond to a written request within 14 working days of receipt of the request may be treated as a denial for purposes of appeal to the Director.

Section 1828.505 Appeals of Denials

- a) A requester whose request has been denied by the Agency may appeal the denial to the Director of the Agency by filing a notice of appeal.
- b) The notice of appeal:

- 1) must be made in writing;
- 2) must be clearly marked "APPEAL OF FOIA REQUEST DENIAL"; and
- 3) must include a copy of the original request, a copy of the denial received by the requester and a statement of the reasons that the request should be granted on appeal.

- c) The notice of appeal should be postmarked within 30 days of the date of mailing of the denial letter. If no written denial is issued, the notice of appeal should be postmarked within 30 days of the date that the final decision was due.

- d) Within 7 working days after receipt of a written notice of appeal of the Agency's denial of the request, the Director shall notify the requester, by certified mail, return-receipt requested, either that the Agency's denial has been confirmed or that the requested public records will be available at some indicated time and place.

- e) In reviewing the decision, the Director shall consider:

- 1) Whether the procedures in this Part have been correctly applied; and
 - 2) Whether additional information available to the Director supports disclosure of the information to the requester.
- f) If the Director confirms the Agency's denial of the request, the requester may file suit for injunctive or declaratory relief in the Circuit Court for Sangamon County or for the county in which the requester resides, in accordance with the procedures set forth in Section 11 of FOIA.

SUBPART F: PROCEDURES FOR PROVIDING PUBLIC RECORDS TO REQUESTERS**Section 1828.601 Inspection of Public Records at the Agency**

- a) Public records may be made available for personal inspection at the Agency's headquarters office located at 1021 North Grand Avenue East, Springfield, Illinois or may be provided in duplicate forms including, but not limited to, paper copies, data processing printouts, videotape, microfilm, audio tape, reel to reel microfilm, photographs, computer disks and diazo.

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- b) The Agency will provide public records in requested formats or media only if the public records are kept in those formats or media at Agency headquarters.

- c) A requester may inspect public records at the Agency's headquarters by appointment only, scheduled subject to space availability. The Agency will schedule inspection appointments to take place during normal business hours, which are 8:30 AM to 5:00 PM Monday through Friday, exclusive of State holidays. If the requester must cancel the viewing appointment, the requester shall so inform the Agency as soon as possible before the appointment.

- d) In order to maintain routine Agency operations, the requester may be asked to leave the inspection area for a specified period of time.

- e) The requester will have access only to the designated inspection area at the Agency's headquarters.

- f) Requesters shall not be permitted to take briefcases, folders or similar materials into the room where the inspection takes place. An Agency employee may be present during the inspection.

- g) The requester shall segregate and identify the documents to be copied during the course of the inspection. The requester shall copy the documents at the Agency's headquarters or arrange for the copying of the documents at the Agency's headquarters by an outside service.

Section 1828.602 Fees for Public Records

- a) In accordance with Section 1828.603, the Agency may charge fees reasonably calculated to reimburse its actual cost for reproducing and certifying public records and for the use, by any person, of the equipment of the Agency to copy records. Such fees shall exclude the costs of any search for and review of the record, and shall not exceed the actual cost of reproduction and certification (Section 6(a) of FOIA).

- b) The Agency will provide copies of public records and certifications of public records in accordance with the fee schedule set forth in Section 1828. Appendix A.

- c) In order to expedite the copying of public records that the Agency cannot copy, due to the volume of the request or the operational needs of the Agency, in the timelines established in Section 1828.501, the requester may provide, at the requester's expense, the copy machine, all necessary materials and the labor to copy the public records at the Agency headquarters in Springfield, Illinois.

- d) Copies of public records will be provided to the requester only upon payment of any fees due. Payment must be by check or money order sent to the Agency, payable to "Treasurer, State of Illinois."

- e) If a contractor is used to inspect or copy public records, the following procedures shall apply:

- 1) The requester rather than the Agency must contract with the contractor;
- 2) The requester is responsible for all fees charged by the

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contractor;

- 3) The requester must notify the Agency of the contractor to be used prior to the scheduled on-site inspection or copying;
- 4) Only Agency personnel may provide public records to the contractor;
- 5) The Agency must have verification that the requester has paid the Agency, if payment is due, for the copying of the public records before providing the public records to the contractor; and
- 6) The requester must provide to the Agency the contractor's written agreement to hold the public records secure, to copy the records only for the purpose stated by the requester, and to return the records at a specified date and time.

Section 1828.603 Reduction and Waiver of Fees

- a) Fees may be reduced or waived by the Agency if the requester states the specific purpose for the request and indicates that a waiver or reduction of the fee is in the public interest. In making this determination, the Agency shall consider the following:
 - 1) Whether the principle purpose of the request is to disseminate information regarding the health, safety and welfare or the legal rights of the general public; and
 - 2) Whether the principle purpose of the request is personal or commercial benefit. For purposes of this subsection, "commercial benefit" shall not apply to requests made by news media when the principal purpose of the request is to access and disseminate information regarding the health, safety, and welfare or the legal rights of the general public (Section 6(b) of FOIA).
- b) Public records shall be provided without charge to federal, state, and municipal agencies, Constitutional officers and members of the General Assembly, and not-for-profit organizations in good standing with the Secretary of State's office.

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Section 1828.APPENDIX A Fee Schedule for Duplication and Certification of Public Records

TYPE OF DUPLICATION

FEE (PER COPY)

Paper copy from original, up to and including 400 copies

No Charge

Paper copy from original, in excess of 400 copies

\$.25/page

Paper copy from microfilm original

\$.25/page

Microfilm diazo from original

\$.50/diazo

VHS video copy

Cost of tape

Audio tape copy

Cost of tape

CD ROM

Cost of disk

Photograph from negative

Cost of reproduction

(outside processing only)

Blueprints/oversized prints

Cost of reproduction

Certification fee

\$1.00/record

NOTE: Expense for delivery other than United States mail first class must be borne by the requester.

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- 1) Heading of the Part: Alternate Fuels Program
- 2) Code Citation: 35 Ill. Adm. Code 275
- 3)

<u>Section Numbers</u>	<u>Adopted Action</u>
275.100	Amend
275.120	Amend
275.140	Amend
275.230	Amend
275.240	Amend
- 4) Statutory Authority: Sections 15 and 30 of the Alternate Fuels Act [415 ILCS 120/15 and 30].
- 5) Effective Date of Amendments: September 13, 1999
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? Yes
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: May 7, 1999, 23 Ill. Reg. 5394
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: There were no changes.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? There were no changes.
- 13) Will these amendments replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: Section 15 of the Alternate Fuels Act originally required the Illinois EPA to adopt rules implementing the Alternate Fuels Rebate Program. These amendments are necessitated by the passage of Public Act 90-726 and Public Act 90-797, which were both enacted last year. Both Acts make several minor changes to the Alternate Fuels Rebate Program. Two definitions are clarified and the program is extended through 2002. Further, to ease the application process, the deadline is extended for owners of alternate fuel vehicles who incur costs in December. The rules had required applications to be received by the end of the calendar year during which costs were incurred; however, these

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amendments allow applications to be submitted by January 31 when the costs were incurred in December.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Robert A. Messina
Assistant Counsel
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East, P.O. Box 19726
Springfield, Illinois 62794-9276
217/782-5544
217/782-9143 (TDD)

The full text of the adopted amendments begin on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE B: AIR POLLUTION

CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 275

ALTERNATE FUELS PROGRAM

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APPENDIX A	Annual Fuel Cost Differential For LDVs

AUTHORITY: Implementing and authorized by Sections 15 and 30 of the Alternate Fuels Act [415 ILCS 120/15 and 30].

SOURCE: Adopted at 21 Ill. Reg. 7150, effective May 29, 1997; amended at 23 Ill. Reg. 11916, effective SEP 13 1999.

NOTE: In this Part, unless the context clearly indicates otherwise, superscript numbers or letters are denoted by parentheses; subscripts are denoted by brackets.

SUBPART A: GENERAL PROVISIONS

Section 275.100 Purpose

This Part establishes procedures for applying for an alternate fuel vehicle rebate or domestic renewable fuel rebate as authorized by the Alternate Fuels Act [415 ILCS 120]. Applications for a conversion cost rebate or OEM differential cost rebate ~~the Alternate-Fuels-Program~~ may be submitted for calendar years 1997, and 1998, 1999, 2000, 2001, and 2002. Applications for a fuel cost differential rebate may be submitted for calendar years 1997, 1998, 1999, 2000, and 2001, and pre-approved rebates may also be given in fiscal

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years 2002 and 2003 1999-and-2000, depending on fund availability.

(Source: Amended at 23 Ill. Reg. 11916, effective SEP 13 1999.)

Section 275.120 Definitions

"Alternate fuel" means liquefied petroleum gas, natural gas, E85 blend fuel, fuel composed of a minimum 80% ethanol or 80% bio-based methanol, fuels derived from 80% biomass, or electricity.

"Alternate fuel vehicle" means any motor vehicle or engine that meets a federal or CARB emission standard, or meets the federal anti-tampering provisions pursuant to USEPA Memorandum 1A, incorporated by reference at Section 275.140 of this Subpart, is capable of using an alternate fuel, and is operated in the State of Illinois.

"Conventional", when used to modify the word "vehicle", "engine", or "fuel", means gasoline or diesel or any reformulations of those fuels. [415 ILCS 120/10]

"Covered area" means the counties of Cook, DuPage, Kane, Lake, McHenry, and Will and those portions of Grundy County and Kendall County that are included in the following zip code areas, as designated by the U.S. Postal Service on August 7, 1998: 60416, 60444, 60447, 60450, 60481, 60538, and 60543. ~~the-counties-of-Cook,-DuPage,-Kane,-Lake,-McHenry,-and-Will--and-the-townships-of--Aux--Sable--and--Goose--Lake--in--Grundy-County-and-the-township-of--Oswego-in-Kendall-County- [415 ILCS 120/10]~~

"Domestic renewable fuel" means a fuel produced in the United States composed of a minimum 80% ethanol or 80% bio-based methanol, or other fuels derived from 80% biomass.

"E85 blend fuel" means fuel that contains 85% ethanol and 15% gasoline. [415 ILCS 120/10]

"Federal low emission standard" means the low emission vehicle (LEV), ultra-low emission vehicle (ULEV), zero emission vehicle (ZEV), or inherently low emission vehicle (ILEV) standard, as set forth in 40 CFR 88, incorporated by reference in Section 275.140 of this Subpart.

"Gross Vehicle Weight Rating (GVWR)" means the total vehicle weight, including the maximum load, as designated by the original equipment manufacturer.

"Heavy-duty vehicle (HDV)" means a motor vehicle whose GVWR is more

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than 8,500 lbs.

"Inherently Low Emission Vehicle (ILEV)" means any LDV certified to the applicable ILEV evaporative emission standard found in 40 CFR 88, incorporated by reference at Section 275.140 of this Subpart, or any HDV with an engine certified to the applicable ILEV standard. No dual fueled or flexible fueled vehicle shall be considered an ILEV unless it is certified to the applicable standard(s) (i.e., LEV, ULEV or ZEV) for such weight class on all fuel types for which it is designed to operate.

"Light-duty vehicle (LDV)" means a motor vehicle whose GVWR is no more than 8,500 lbs.

"Location" means a parcel of real property or multiple, contiguous parcels of real property that are separated by private roadways, public roadways, or private or public rights-of-way and are owned, operated, leased, or under the common control of one party. [415 ILCS 120/10]

"Low Emission Vehicle (LEV)" means any LDV, or any HDV with an engine certified to the applicable federal low emission vehicle standard in 40 CFR 88, incorporated by reference in Section 275.140 of this Subpart.

"Owner" means any person who has legal or equitable title to a motor vehicle.

"Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, state, municipality, political subdivision of a state, any agency, department, or instrumentality of the United States, and any officer, agent or employee of any of the above.

"Private fueling operation" means any activity where alternate fuel is transferred from a stationary or mobile source to a fuel storage system used to provide fuel to the engine or motor of that vehicle where such fuel is not available to the public.

"Public fueling operation" means any site where alternate fuel is transferred from a stationary source to a fuel storage system used to provide fuel to the engine or motor of that vehicle, and is a retail operation.

"Retail" means to sell directly to the ultimate consumer in small quantities (e.g., gallons) and deliver fuel to a fuel storage system used to provide fuel to the engine or motor of a vehicle.

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"Small fleet owner" means a person who owns or operates no more than 30 motor vehicles and employs 100 or fewer employees.

"Ultra Low Emission Vehicle (ULEV)" means any LDV, or any HDV with an engine certified to the applicable federal ultra low emission vehicle standard in 40 CFR 88, incorporated by reference in Section 275.140 of this Subpart.

"Zero Emission Vehicle (ZEV)" means any LDV, or any HDV certified to the applicable federal zero emission vehicle standard in 40 CFR 88, incorporated by reference in Section 275.140 of this Subpart.

(Source: Amended at 23 Ill. Reg. 11916, effective SEP 13 1999)

Section 275.140 Incorporations by Reference

The following materials are incorporated by reference and do not contain any subsequent additions or amendments:

- Clean Fuel Vehicles, 40 CFR 88, as amended on April 23, 1998 (63 Fed. Reg. 20103).
- Control of Emissions From New and In-Use Highway Vehicles and Engines Air--Pollution--from--New-and-In-Use-Motor-Vehicles-and-New-and-In-Use Motor-Vehicle-Engines--Certification-and-Test-Procedures, 40 CFR Part 86, as amended on December 22, 1998 (63 Fed. Reg. 70681).
- Mobile Source Enforcement Memorandum No. 1A: Interim Tampering Enforcement Policy, USEPA (June 25, 1974), as amended on June 16, 1998 (63 Fed. Reg. 32878).

(Source: Amended at 23 Ill. Reg. 11916, effective SEP 13 1999)

SUBPART B: REBATES

Section 275.230 Applications

To apply for a rebate, owners of alternate fuel vehicles must provide the Agency with the information listed in subsections (a) and (e) of this Section and the information from either subsection (b), (c) or (d) of this Section.

- Applications for a conversion, OEM or fuel cost differential rebate must include the following information:

- For each alternate fuel vehicle:
 - The make, model and year of manufacture;
 - The date of vehicle acquisition or conversion;
 - The vehicle identification number (VIN);
 - The license plate number and the state of registration;
 - The emission standard(s) to which the alternate fuel vehicle is certified (e.g., conventional, LEV, ULEV, ZEV or ILEV)

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and the certifying agent (e.g., USEPA, CARB, or the Conversion System Manufacturer to Memorandum No. 1A, incorporated by reference in Section 275.140 of this Part);

F) The alternate fuel for which the vehicle is certified to meet the requirements of Section 275.210(c) or (d) of this Subpart; and

G) For LDVs, the 8-character alpha numeric bar-coded vehicle emission configuration number assigned by the manufacturer and imprinted on vehicles manufactured on or after MY 1993;

H) The GVWR of the vehicle; and

I) Whether the vehicle will be primarily fueled at a public or a private fueling operation.

2) The amount of the rebate being requested and documentation as required by either subsection (b), (c) or (d) of this Section, demonstrating that the costs were actually incurred and how the rebate amount was calculated.

b) Applicants for an OEM alternate fuel vehicle rebate, in addition to the information required by subsections (a) and (e) of this Section, must provide the following:

1) A copy of the sales invoice showing the purchase price of the alternate fuel vehicle; and

2) Documentation from the retailer indicating the retail cost or sticker price of a conventional fuel vehicle that is the same make, model, equipment and year as the alternate fuel vehicle or engine purchased for which a rebate is being sought under this Part.

c) Applicants for a conversion alternate fuel vehicle rebate, in addition to the information required by subsections (a) and (e) of this Section, must provide:

1) The name and address of the person(s) performing the conversion;

2) A statement that the motor vehicle was converted in accordance with the applicable requirements of Section 275.210(a) of this Subpart; and

3) A copy of the conversion invoice showing the cost of the conversion.

d) Applicants for a fuel cost differential rebate, in addition to the information required in subsections (a) and (e) of this Section, must provide:

1) For the first year:

A) For LDVs using methanol or ethanol, the name of the primary fuel supplier(s), the number of gallons of domestic renewable fuel purchased, and number of miles driven that calendar year; and

B) For alternate fuel LDVs using biomass fuels and any alternate fuel HDV, the name of the primary fuel supplier(s), the name of the domestic renewable fuel, the number of miles to the gallon for the domestic renewable fuel, the number of miles to the gallon for the conventional

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fuel, the cost per gallon of the domestic renewable fuel, the cost per gallon of the conventional fuel, and the number of miles driven that calendar year.

2) For the second and third years, the owner must annually certify, once approved, that the owner still owns and operates the alternate fuel vehicle, has purchased domestic renewable fuel, and that domestic renewable fuel was used for more than one-half of the miles driven in that calendar year. The statement must be signed by the owner, and must be submitted to the Agency no more than 30 days after the anniversary date of the rebate.

e) In addition to the information required in subsection (a) of this Section and either subsection (b), (c) or (d) of this Section, all applications submitted to the Agency must include the following:

1) The name, address, and phone number of the owner;

2) If the applicant is not an individual:

A) The name of the entity, mailing address and location of records if they are different from the information reported in subsection (e)(1) of this Section;

B) The number of employees; and

C) The FEIN number;

3) The number of motor vehicles owned;

4) The primary location(s) of the vehicles;

5) The name, address and social security number of the payee for the rebate; and

6) The signature of the owner.

f) Applications for costs incurred during calendar years 1997, and 1998, 1999, 2000, 2001, and 2002 that meet the requirements of this Section and ~~either~~ Section 275.210 ~~or~~ ~~275.220~~ of this Subpart must be submitted by December 31 of that calendar year, but if the cost was incurred in December then the application must be submitted by January 31 of the following year ~~may be submitted earlier~~. Applications for costs incurred during calendar years 1997, 1998, 1999, 2000, and 2001 that meet the requirements of this Section and Section 275.220 of this Subpart must be submitted by December 31 of that calendar year, but if the cost was incurred in December then the application must be submitted by January 31 of the following year.

(Source: ~~Amended~~ at 23 Ill. Reg. ~~11916~~, effective ~~SEP 10 1999~~)

Section 275.240 Agency Action

a) The Agency shall review and approve applications that meet the requirements of Section 275.230 of this Subpart in June and December of fiscal years 1998, 1999, and 2000, 2001, 2002, and 2003, consistent with fund availability and prioritization as set forth in subsections (b), (c) and (d) of this Section.

b) The Agency shall establish priority classes for rebate applications

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for rebates in the following order:

- 1) Vehicles of small fleet owners located in the covered area that refuel at a public fueling operation;
 - 2) Vehicles of small fleet owners located outside of the covered area that refuel at a public fueling operation;
 - 3) Other vehicles located in the covered area that refuel at a public fueling operation;
 - 4) Other vehicles located outside of the covered area that refuel at a public fueling operation;
 - 5) Vehicles of small fleet owners located in the covered area that refuel at a private fueling operation;
 - 6) Vehicles of small fleet owners located outside of the covered area that refuel at a private fueling operation;
 - 7) Other vehicles located in the covered area that refuel at a private fueling operation;
 - 8) Other vehicles located outside of the covered area that refuel at a private fueling operation and all other vehicles.
- c) In addition to the priorities in subsection (b) of this Section, the Agency shall further sub-prioritize applications within a priority class by giving an alternate fuel vehicle that is federally certified or CARB certified to an ILEV, LEV, ULEV or ZEV emission standard higher priority within their priority class as determined by subsection (b) of this Section.
- d) In addition to the priorities in subsections (b) and (c) of this Section, the Agency shall further prioritize applications within a sub-priority class as determined by subsection (c) of this Section by giving applications priority in the order in which the application was received.
- e) Notwithstanding subsections (b) and (c) of this Section, rebate amounts shall be limited by the following criteria:

- 1) An owner may receive only one type of rebate per alternate fuel vehicle either for the conversion, OEM, or the fuel cost differential. An alternate fuel vehicle is eligible for only one rebate.
- 2) An owner of an alternate fuel vehicle may receive rebates for no more than 150 alternate fuel vehicles per location and no more than 300 alternate fuel vehicles total for all locations.
- 3) Rebates for OEMs or conversions of conventional vehicles are limited to \$4,000 per vehicle or 80% of the cost of either subsection (e)(3)(A) or (e)(3)(B) of this Section, whichever is less:
 - A) The cost of converting a conventional vehicle to an alternate fuel vehicle; or
 - B) The additional cost of purchasing an OEM alternate fuel vehicle or engine versus a conventional vehicle or engine.
- 4) Rebates for the purchase of domestic renewable fuels will be determined in accordance with Section 275.220(d) of this Subpart, but in no case will a rebate for the three year period exceed

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\$4,000.

- f) Rebates in any period will be limited to the funds available in the Alternate Fuel Fund for the applicable period.
- g) The Agency shall notify owners of whether their application for a rebate has been approved or held over to a subsequent period within 90 days after the end of the applicable period. Applications held over retain their priority as determined by subsections (b), (c) and (d) of this Section.

(Source: ~~Amended~~ at 23 Ill. Reg. 11916, effective July 1, 1989)

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1) Heading of the Part: Public Museum Grants Program2) Code Citation: 23 Ill. Adm. Code 32003) Section Number: Adopted Action:

3200.5	Amend
3200.10	Amend
3200.15	New
3200.20	Amend
3200.30	Repeal
3200.40	Amend
3200.50	Repeal, New
3200.60	New
3200.65	New
3200.70	New
3200.80	New
3200.90	New
3200.100	New
3200.110	New
3200.120	New
3200.130	New
3200.140	New
3200.150	New
3200.160	New
3200.165	New
3200.170	New

4) Statutory Authority: Implemented and authorized by Section 1-25(22) of the Department of Natural Resources Act [20 ILCS 801/1-25(22)].5) Effective Date of Amendments: September 15, 19996) Does this rulemaking contain an automatic repeal date? No7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal published in Illinois Register: 22 Ill. Reg. 21765 - December 18, 199810) Has JCAR issued a Statement of Objection to these rules? No

11) Differences between proposal and final version: Throughout the rulemaking, "applicant" has been changed to "public museum".

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In Section 3200.10, the definition of "Applicant" has been stricken; the definition of "Care(s)" has been changed to "Care"; the definition of "Fiscal Agent" has been added after "Director" to read as follows:

"Fiscal Agent" means an affiliated entity that may expend and receive funds on behalf of the public museum. A certification statement must be signed by the chief executive officer of the public museum if grant funds are to be distributed to a fiscal agent on behalf of the public museum. The certification shall reflect:

that there is an ongoing relationship between the museum and the fiscal agent;

that the fiscal agent may incur expenses for the museum's project; and

that grant funds will be used specifically for the public museum project.

In the definition of "Public Museum", the italics have been removed and the definition has been changed to read as follows:

"Public Museum" means a facility that has been open to the public for at least two years and that is operating for the purposes of promoting cultural development through special activities or programs and acquiring, conserving, preserving, studying, interpreting, enhancing, and in particular, organizing and continuously exhibiting (subject to temporary interruption due to construction or catastrophe) specimens, artifacts, articles, documents and other things of historical, anthropological archaeological, industrial, scientific or artistic import, to the public for its instruction and enjoyment.

In the definition of "Tangible Objects", "which" has been stricken and replaced with "that".

Section 3200.18 has been deleted.

In Section 3200.20, a new subsection (a) has been added to read: "It is a public museum that has been in existence for two years and that is operated by or located upon land owned by a unit of local government;" subsection "(a)" has been changed to "(b)"; subsection "(b)" has been changed to "(d)"; a new subsection "(c)" has been added to read: "It meets generally accepted professional standards as in the accreditation programs of the American Association of Museums, American Zoo and Aquarium Association, American Association of Botanical Gardens and Arboretums, and other appropriate organizations;" subsection "(c)" has been changed to "(e)"; subsection "(d)" has been deleted; subsection "(e)" has been changed to "(f)"; subsection "(f)" has been changed to "(g)"; existing

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subsection "(g)" has been deleted; in subsection "(h)", "state" has been changed to "State"; and a new subsection "(i)" has been added to read: "It has filed timely reports and complied with requirements for previous grant awards."

In Section 3200.40, "of Natural Resources" has been deleted and replaced with ", and one copy of each attachment,"; subsection (1), "General Information" and "that includes" has been deleted; subsection (A), (B) and (C) has been deleted; subsection (2), "A" and "institution which certifies that the applicant" has been stricken and replaced with "public museum that states that the museum is in compliance with the eligibility criteria of this program,"; subsection (3) has been deleted and replaced with "Project Narrative Statement"; subsection (4) has been deleted and replaced with "Development Data Form including costs, a conceptual plan, and construction schedule"; subsection (5) has been deleted and replaced with "Land Acquisition Data, if applicable,"; and new subsections (7) and (8) have been added:

"7) Cultural Resources, Endangered Species and Wetlands Review Report (CEPR),

8) If funds are to be distributed by the Department to a fiscal agent on behalf of the public museum, a certification statement must be signed by the chief executive officer of the public museum. The certification will state:

- A) that there is an ongoing relationship between the museum and the fiscal agent;
- B) that the fiscal agent may incur expenses for the museum's project; and
- C) that grant funds will be used specifically for that project."

In Section 3200.40, subsection (b) has been deleted; subsection (c) has been changed to "(b)"; subsection (d) has been deleted.

In Section 3200.50, "The Department shall announce the maximum grant award in conjunction with announcing the annual grant application schedule." has been added at the end of the sentence.

Section 3200.55 has been deleted.

In Section 3200.60, in the Section heading, "Criteria and Selection" has been added between "Review Procedure"; in subsection (a), "and program" has been added between "Technical Review" and "materials" has been deleted; subsections (1) through (6) have been deleted and replaced as follows:

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"1) Completeness of application.

- 2) Evidence that the public museum meets all eligibility criteria, as heretofore defined.
- 3) Project's feasibility with regard to operational capacities of the public museum.
- 4) Adequacy of cost estimates and construction schedule estimates.
- 5) Meeting community needs.
- 6) Effectively enhancing the museum's educational mission.
- 7) Expanding audiences, including reaching under served groups.
- 8) Compliance with requirements of previous grant awards."

In Section 3200.60, subsection (b) has been deleted and subsection (d) has been changed to "(b)"; in new subsection (b)(1), "five" has been changed to "5", "and staff recommendations" has been deleted and "to the Director" has been deleted, "which" has been changed to "that"; in new subsection (b)(2), "annually" has been deleted.

In Section 3200.65, "a)" has been added before "Award Limit,"; the new subsection (a) has been revised as follows: "The Department shall establish on an annual basis the maximum grant award a public museum may receive; however, the maximum grant award shall be no less than 10% of the annual appropriation, excluding funds that may be reappropriated from a preceding year. The Department shall announce the maximum grant award in conjunction with announcing the annual grant application schedule." ; a new subsection (b) has been added as follows:

"b) Reappropriation of Funds. Reappropriation of funds will be sought for projects approved for funding that have not been completed and reimbursement sought in the fiscal year that the project was approved."

Section 3200.70 has been deleted and replaced as follows:

"Section 3200.70 Eligible Expenses
Eligible expenses are defined as:

- a) Expenses that meet the definition of Capital Expenditures as heretofore defined;
- b) Expenses that are pursuant to the scope of work as agreed upon and

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approved by the Department. The State's one-third match can only be used for capital expenditure costs incurred after July 1 of the fiscal year in which grant the grant award is made. Expenditures incurred back to July 1, 1998, may be eligible for reimbursement if the public museum received a capital grant in FY99 and if the proposed project is an integral component of the FY99 project and was not reimbursed in the FY99 grant award.

- c) Expenses incurred directly by the public museum, or expenses incurred specifically for the public museum's project by the museum's fiscal agent."

Section 3200.80 has been deleted and revised as follows:

"Section 3200.80 Process for Payment

- a) The public museum or fiscal agent representing the public museum enters into a Project Agreement with the Department.
- b) Public museums who have been awarded capital grants must submit project billing requests (expenditure statements), certified by the public museum's Chief Executive Officer or Chief Financial Officer, listing and verifying all funds expended on the project for which grant reimbursement is sought; as well as required billing documentation as follows:

- 1) Acquisition of Property: Proof of good faith negotiations or fair market value offer to land seller, copy of warranty deed (Judgment Order in case of condemnation and title insurance for any deed less than warranty) showing ownership transferred to the local project sponsor, and copies of documents showing proof of payment to seller.
- 2) Development of Permanent Improvements: Copy of receipts/invoices for project costs, and copy of documents showing proof of payment."

A new Section 3200.90 has been added as follows:

"Section 3200.90 Program Information/Contact
Illinois State Museum, Museum Grant's Office
Spring and Edwards Streets
Springfield, IL 62706-5000
Phone: 217.782.5992
email: museum.grants@museum.state.il.us

(Supersedes 1999) Added at 23 Reg. 11 926, effective 12/1

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In Section 3200.100, the definition of "Applicant" has been deleted; the definition of "Care(s)" has been changed to "Care"; the definition of "Fiscal Agent" has been added after "Director" to read as follows:

"Fiscal Agent" means an affiliated entity that may expend and receive funds on behalf of the public museum. A certification statement must be signed by the chief executive officer of the public museum if grant funds are to be distributed to a fiscal agent on behalf of the public museum. The certification shall reflect:

- that there is an ongoing relationship between the museum and the fiscal agent;
- that the fiscal agent may incur expenses for the museum's project; and
- that grant funds will be used specifically for the public museum project.

In the definition of "Museum Education Program", "The public museum shall have at least one employee who devotes the preponderance of his/her time to offer "Museum Education Programs". This person is expected to command an appropriate body of special knowledge in museum education consonant with the experience of his or her peers, and who has access to and acquaintance with the literature of the field, and that such employee works sufficient hours to meet adequately the current demands for museum educational services." has been added at the end of the sentence. This definition has been moved to above "Nonprofit".

The definition of "Operating Expenditures" has been added after the definition of "Nonprofit" to read as follows:

"Operating Expenditures" means funds actually expended by a public museum or its fiscal agent for the recurring day-to-day expenses that are ordinary and necessary to maintain and operate the facility for its principal purpose as a public museum. These expenditures shall include:

- the total amount of program and supporting services expenses (management and general) and fund raising expense that is reported on the entity's audited financial statements;
- depreciation expense for the buildings, movable equipment, and other types of personal property; and
- interest expenses on funds borrowed to finance operating expenditures.

The definition of "Professional Staff" has been changed to read:

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"Professional Staff" means that the public museum has at least one paid employee, who commands an appropriate body of special knowledge and the ability to reach museological, zoological, aquarium, or botanical (whichever shall be applicable) decisions consonant with the experience of his or her peers, and who has access to and acquaintance with the literature of the field, and that such employee works sufficient hours to meet adequately the current demands of administration and care.

In the definition of "Public Museum", the definition has been changed to read as follows:

"Public Museum" means a facility that has been open to the public for at least two years and that is operating for the purposes of promoting cultural development through special activities or programs and acquiring, conserving, preserving, studying, interpreting, enhancing, and in particular, organizing and continuously exhibiting (subject to temporary interruption due to construction or catastrophe) specimens, artifacts, articles, documents and other things of historical, anthropological, archaeological, industrial, scientific or artistic import, to the public for its instruction and enjoyment."

In the definition of "Tangible Objects", "which" has been stricken and replaced with "that".

In Section 3200.110, "face to face" has been changed to "direct".

In Section 3200.120, "through the operating grant program" has been added after the words "financial support"; a new subsection (a) has been added to read as follows:

"a) It is a public museum that is operated by or located upon land owned by a unit of local government or has an annual attendance of at least 150,000 and offers educational programs to school groups during school hours."

In Section 3200.120, old subsection (a) now becomes "b)"; and a new subsection (c) has been added to read as follows:

"c) It meets generally accepted professional standards as in the accreditation programs of the American Association of Museums, American Zoo and Aquarium Association, American Association of Botanical Gardens and Arboreta and other appropriate organizations."

In Section 3200.120, old subsection (c) now becomes "d)"; subsection (d) now becomes "e)"; existing subsection (e) has been deleted; and a new subsection (i) has been added as follows:

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"i) It has filed timely reports and complied with requirements for previous grant awards."

Section 3200.130 has been revised as follows:

"a) Any public museum seeking a grant for operating purposes under this Part shall submit three copies of the completed application forms supplied by the Department, and one copy of each attachment, that includes:

- 1) An Application Form;
- 2) A narrative statement describing the museum's education program and how the financial assistance will enhance the museum education program;
- 3) A statement describing the qualifications of the educator in charge of the program (including the curriculum vitae);
- 4) A brochure describing educational offerings or school services (if available);
- 5) The annual report of the public museum for the year proceeding its application;
- 6) A certification statement executed by the public museum's chief executive officer that certifies that the public museum is in compliance with the eligibility criteria of this program."

In Section 3200.130, subsection (g) has been changed to "7)" and "which" has been changed to "that"; subsection (h) has been changed to "8)" and "two" has been changed to "2" and "Grants to museums without audited financial statements will be limited to the minimum award." has been added at the end of new subsection "8)"; and subsection "i)" has been changed to "9)" and "an official" has been deleted and replaced with "the Chief Executive Officer"; a new subsection "10)" and "b)" has been added as follows:

"10) If funds are to be distributed by the Department to a fiscal agent on behalf of the public museum, a certification statement must be signed by the chief executive officer. The certification shall reflect:

- A) that there is an ongoing relationship between the museum and the fiscal agent;
- B) that the fiscal agent may incur expenses for the museum's project; and

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C) that grant funds will be used specifically for the museum project.

b) Public museum's may submit only one grant application during an application period."

In Section 3200.150, "applicant has met the" has been deleted and replaced with "public museum meets all" and "as heretofore defined" has been added at the end of the sentence; a new subsection (d) has been added as follows: "The public museum has complied with requirements of previous grant awards."

In Section 3200.160, "applicant" has been changed to "public museum applying"; a new subsection "A)" has been added to read: "The administrative costs to operate the program, not to exceed 5% of the total appropriation will be deducted from the appropriation before calculating the awards to determine the amount remaining for financial assistance."; subsection "A)" has been changed to "B)" and "total appropriation" has been deleted and replaced with "amount remaining for financial assistance after administrative costs are deducted."; subsection "B)" has been changed to "C)" and "total appropriation" has been deleted and replaced with "amount remaining for financial assistance after administrative costs are deducted."; a new subsection "D)" has been added to read: "No qualifying museum may receive more than 50% of its total operating budget."; in subsection (2), "prorational" has been changed to "pro-rated" and "total appropriation" has been changed to "amount remaining for financial assistance, after administrative costs have been deducted, and, that no museum may receive more than 50% of its total operating budget."

In Section 3200.160(b)(1), "two" has been changed to "2"; subsection (b)(3)(A), "total appropriation" has been deleted and replaced with "amount remaining for financial assistance" and "(a)(1)(A)" has been changed to "(a)(1)(B)" in subsection (b)(2), "(a)(1)(B)" has been changed to "(a)(1)(C)"; subsection (c) and (c)(1)(A), "which" has been changed to "that"; subsection (c)(1)(B) has been deleted and replaced with "The depreciation expense for capital assets may be included."; subsection (c)(1)(C), "Operating Expenditures" has been changed to "this subsection (c)" and "which" has been changed to "that"; in subsection (c)(1)(D), "Chief Executive Officer or Chief Financial Officer" has been added before the words "affiliated entity"; and "(c)(1)(D)" has been added after the word "subsection"; "which" has been changed to "that".

In Section 3200.160(c)(1)(E) has been deleted and replaced with "The depreciation expense for movable equipment and other types of personal property may be included."; in subsection (F), "which" has been changed to "that"; and a new subsection (G) has been added to read: "Expenses incurred by the public museum for the cost of educational, food service and gift shop activities may be included in the operating expenditure

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total. The receipts from these activities should not be deducted from the expenditure total."; subsection (c)(2)(D) has been deleted; subsection (E) has been changed to "D)" and (F) has been changed to "E)"; in subsection (c)(3), "detailed written explanation in order to reconcile the two" has been deleted and replaced with "reconciliation statement" and "in detail for the reviewer to understand" has been added after the word "describe"; subsection (e) has been changed to "(d)"

Section 3200.165" has been added as follows:

"Section 3200.165 Process for Payment

a) Upon completion and processing of the Department's Project Agreement, award payments will be issued.

b) Submission of a report to the Department describing how grant funds were expended and the results of such expenditures will be required as delineated in the project agreement.

Source: Added at 23rd Ill. Reg. **11926**, effective SEP 15 1999

In Section 3200.170, "Karen Fyfe" has been deleted; "Administrative Office" has been changed to "Museum Grants Office"; "Street" has been changed to "Streets"; the phone number has been changed to "217.782.5992" and the email has been changed to "museum.grants@museum.state.il.us"

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this amendment replace an emergency rule currently in effect? No

14) Are there any amendments pending of this Part? No

15) Summary and Purpose of Amendment: This is a grant program to enhance the capital facilities and educational programs of eligible public museums.

16) Information and questions regarding this adopted amendment shall be directed to:

Stanley Yonkauskis, Jr., Legal Counsel
Department of Natural Resources
524 South Second Street
Springfield, IL 62701
(217)782-1809

The full text of the adopted amendments begins on the next page:

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TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE B: CULTURAL RESOURCES

CHAPTER II: DEPARTMENT OF NATURAL RESOURCES

PART 3200

PUBLIC MUSEUM GRANTS PROGRAM FINANCIALS-SUPPORT

SUBPART A: CAPITAL GRANTS PROGRAM

Section	Authority
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3200.10	Purpose
3200.15	Eligibility Criteria for Applicant-Facilities
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SUBPART B: PUBLIC MUSEUM OPERATING GRANT RULES

Section	Definitions
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3200.140	Review Procedure
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3200.165	Program Information/Contact
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AUTHORITY: Implementing and authorized by Section 1-25(22) of the Department of Natural Resources Act [20 ILCS 801/1-25(22)].

SOURCE: Emergency rule adopted at 3 Ill. Reg. 11, p. 18, effective March 1, 1979, for a maximum of 150 days; adopted at 4 Ill. Reg. 18, p. 113, effective April 22, 1980; amended at 5 Ill. Reg. 5649, effective May 18, 1981; codified at 8 Ill. Reg. 1448; amended at 10 Ill. Reg. 4536, effective February 28, 1986; recodified from the Department of Energy and Natural Resources to the Department of Natural Resources at 22 Ill. Reg. 11230; emergency amendment at 22 Ill. Reg. 17381, effective September 17, 1998, for a maximum of 150 days; emergency expired February 13, 1999; emergency amendment at 22 Ill. Reg. 22097, effective December 3, 1998, for a maximum of 150 days; emergency expired May 1, 1999; amended at 23 Ill. Reg. 11926, effective SEP 15 1999.

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SUBPART A: CAPITAL GRANTS PROGRAM

Section 3200.5 Authority

For the purpose of determining eligibility of Illinois public museums, as defined in Section 1-25(22) of the Department of Natural Resources Act [20 ILCS 801/1-25(22)] ~~3(b)(22) of the "An Act in relation to natural resources, research, data collection and environmental studies" (Ill. Rev. Stat. 1983, ch. 96-1797, par. 4403(b)(22)), so that such museums may qualify for support under Public Act 80-218 ("Act"), this Part is promulgated.~~

(Source: Amended at 23 Ill. Reg. 11926, effective SEP 15 1999)

Section 3200.10 Definitions

"Applicant" means ~~a public museum which makes an application to the Department pursuant to this Part.~~

"Capital Expenditure" means an outlay of capital that results in the acquisition of property or permanently improves its value or usefulness. For purposes of this program, capital expenditures include, but are not limited to, one or more of the following: land and building acquisition; demolition (in preparation for additional work); site preparation and improvement; utility work; new construction, rehabilitation, major renovations, or expansion of buildings and structures; original furnishings and equipment; replacement of currently utilized assets, by a better asset including permanent exhibits; and any other work that significantly increases the service potential of a building, structure, or exhibit as well as necessary project management fees and associated architectural planning and engineering design services. Acquisition of museum collections, objects, or specimens is not considered a capital expenditure.

"Care ~~care~~" means the keeping of adequate records pertaining to the provenance, identification and location of the museum's holdings, and the application of current professionally accepted methods to their security and to the minimization of damage and deterioration.

"Community" means the population base normally served by the museum.

"Department" means the Illinois Department of Natural Resources.

"Director" means the Director of the Department.

"Fiscal Agent" means an affiliated entity that may expend and receive funds on behalf of the public museum. A certification statement must

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be signed by the chief executive officer of the public museum if grant funds are to be distributed to a fiscal agent on behalf of the public museum. The certification shall reflect:

that there is an ongoing relationship between the museum and the fiscal agent;

that the fiscal agent may incur expenses for the museum's project; and

that grant funds will be used specifically for the public museum project.

"Matching Funds" means local government and/or private funds equal to at least two-thirds of the incurred capital expenditures considered integral to the overall approved grant project scope. Matching funds cannot include federal or other State funds.

"Nonprofit" means that the public museum applicant has documentary evidence of its tax-exempt status under the regulations of the U.S. Internal Revenue Service.

"Operating-Expenditures" means funds actually expended by an applicant for the recurring day-to-day expenses which are ordinary and necessary to maintain and operate the facility for its principal purpose as a public museum.

"Organized" means that the public museum applicant is a duly constituted body with expressed responsibilities.

"Permanent" means that the public museum applicant has existed for at least 2 years and is expected to continue in perpetuity.

"Professional Staff" means that the public museum applicant has at least one paid employee, who commands an appropriate body of special knowledge and the ability to reach museological, zoological, or aquarium, or botanical (whichever shall be applicable) decisions consonant with the experience of his or her peers, and who has access to and acquaintance with the literature of the field, and that such employee works sufficient hours to meet adequately the current demands of administration and care.

"Public Museum" means a facility that has been open to the public, for its instruction and enjoyment for at least two years and that is operating for the purposes of promoting cultural development through special activities or programs and acquiring, conserving, preserving, studying, interpreting, enhancing, and, in particular, organizing and continuously exhibiting (subject to temporary interruption due to

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construction or catastrophe) specimens, artifacts, articles, documents and other things of historical, anthropological, archaeological, industrial, scientific or artistic import.

"Public-Museum" means a facility operating for the purpose of acquiring, conserving, preserving, studying, interpreting, enhancing, and, in particular, organizing and continuously exhibiting tangible objects to the public for its instruction and enjoyment, and is operated by or located upon land owned by a unit of local government.

"Schedule" means regular and predictable hours which constitute substantially more than a token opening, so that access is reasonably convenient to the public.

"Tangible Objects" means specimens, artifacts, articles, documents, non-domesticated plants or animals, including fish; and other things of historical, anthropological, archeological, industrial, scientific or artistic import that form the public museum collections and have intrinsic value to history, science, art or culture.

"Tangible-Objects" means specimens (including, but not limited to, specimens of non-domesticated animals and fish; artifacts, articles, documents, non-domesticated plants or animals, including fish, and other things of historical, scientific or anthropological, archeological, industrial, scientific or artistic import which form the applicant's collections and have intrinsic value to history, science, history, art or culture.

"Unit of Local Government" means counties, municipalities, townships, special districts and units, designated as units of local government by Illinois law, which exercise limited governmental power or powers in respect to limited governmental subjects, but does not include school districts.

(Source: Amended at 23 Ill. Reg. 11926, effective SEP 15 1999)

Section 3200.15 Purpose

The Public Museum Capital Grants Program is designed to help public museums in Illinois expand and upgrade facilities and create new exhibits and other physical facilities to enhance the public museums' ability to meet their educational mission. The program provides up to 33 1/3% funding assistance on a reimbursement basis to eligible applicants for approved capital expenditures on public museum facilities.

(Source: Added at 23 Ill. Reg. 11926, effective SEP 15 1999)

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Section 3200.20 Eligibility Criteria for Applicant Facilities

Any public museum located in Illinois shall be eligible for grants for capital purposes financial support of its operating expenditures if it establishes to the reasonable satisfaction of the Director that:

- a) It is a public museum that has been in existence for two years and that is operated by or located upon land owned by a unit of local government;
- b) It is an organized, permanent and non-profit institution that is tax exempt under the regulations of the U.S. Internal Revenue Service;
- c) It meets generally accepted professional standards as in the accreditation programs of the American Association of Museums, American Zoo and Aquarium Association, American Association of Botanical Gardens and Arboretums, and other appropriate organizations;
- d) It has a professional staff;
- e) It conducts activities of the kind described in the Act during the normal and continuous course of its operations;
- f) It cares for and owns or utilizes tangible objects;
- g) It is open to the public on a regular schedule; and
- h) It devotes the majority of its floor space or grounds and professional staff effort to museological purposes.
- i) It can match a State grant with \$2 of local or private support for each \$1 of State money; and
- j) It has filed timely reports and complied with requirements for previous grant awards.

(Source: Amended at 23 Ill. Reg. 11926, effective SEP 15 1999)

Section 3200.30 Funding Determination (Repealed)

- a) Contribution Amount. Each applicant which is eligible for financial assistance pursuant to this Part shall receive an amount of contribution which is the greater of the following two amounts:
 - i) A minimum amount representing 0.1% (one-tenth of one percent) of the total annual appropriation to the Department for distribution under the Act; or
 - 2) A proportionate amount equal to the fraction obtained by dividing the applicant's operating expenditures by the aggregate operating expenditures of all eligible applicants.
- b) Allocation Procedure. A contribution amount shall be determined by the following sequence of procedures:
 - i) The total operating expenditures of each applicant during its two fiscal years preceding its application shall be divided by 2 (two) in order to determine the amount of average operating expenditures of each applicant;
 - 2) The average operating expenditures of all eligible applicants shall be added together in order to determine the amount of

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- 3) aggregate operating expenditures of all applicants; the average operating expenditures of each applicant shall be divided by the aggregate operating expenditures of all applicants in order to determine the allocation fraction of each applicant;
- A) If the allocation fraction is less than or equal to 0.1% the applicant shall be awarded the minimum amount pursuant to paragraph (a)(1) above; or
- B) If the allocation fraction is greater than 0.1% procedures (b)(1)-(2) and (3) above shall be repeated in order to determine a revised allocation fraction for each applicant (except those which otherwise qualify for the minimum amount);
- 4) The total amount of minimum contributions to eligible applicants as determined by (a)(1) above shall be subtracted from the total amount of annual appropriations in order to determine the amount of remaining appropriations; and
- 5) The amount of remaining appropriations shall be multiplied by the revised allocation fraction of each applicant in order to determine the proportionate amount that will be contributed by the Department to each applicant (except those which otherwise qualify for the minimum amount);
- c) Operating Expenditures. For purposes of this Part, the amount of operating expenditures as heretofore defined shall be derived by the applicant from the total amount of program and supporting services expense which is reported on its audited financial statement. However, to accommodate variations among applicants in accounting methods and expense descriptions on the financial statements, each applicant shall examine its financial statements in conformity with paragraphs (1) and (2) below:
 - i) Operating expenditures may specifically include the following or similar type of expenses:
 - A) Capital expenditures from current unrestricted accounts or in the alternative, an amount for the amortization or depreciation of such capital expenditures; and any other expenditures from current unrestricted accounts which are ordinary and necessary for the applicant's routine day-to-day operations;
 - B) All expenditures from current restricted accounts which qualify as operating expenditures as defined under "Operating Expenditures" in Section 3200.10, but excluding any capital expenditures listed in paragraph (c)(2) below. For example, expenditures related to the development of museum exhibitions and displays may be included even if made from a fund which is limited for this purpose. Expenditures from restricted accounts for preliminary planning or schematic design work are also allowable, including architectural, engineering, design, and consultant fees related to routine maintenance or rehabilitation.

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- e) Direct expenditures made on behalf of the applicant by an affiliated entity provided that they are ordinary and necessary for the day to day operations of the applicant and are separately itemized and verified in writing by the affiliated entity. As used in this subparagraph, "direct expenditures" means expenditures which are identified specifically with the applicant and which costs are incurred by the affiliated entity only for the applicant.
- B) Expenditures for movable equipment and other types of personal property or, in the alternative, an amount for the amortization or depreciation of such personal property, and interest expenses on funds borrowed by the applicant to finance expenditures which are otherwise allowable under this Part.
- 2) Operating expenditures shall not include any of the following or similar type of expenses:
- A) Transfers made to or between the applicant's accounts or funds;
- B) Losses or other costs associated with loans and/or investments made by the applicant;
- C) Expenses for the direct and indirect costs of programs operated by the applicant which are unrelated or only remotely related to museological purposes. For example, the costs of salaries, equipment, facilities and other direct and indirect costs of a school with a regular curriculum which is run by the applicant are not allowable.
- B) Expenses for field trips and other educational programs offered by the applicant to the extent that the costs are recovered from or paid by a participating traveler or student.
- B) Capital expenditures from restricted accounts, including but not limited to:
- i) real property;
- ii) buildings, additions and/or structures (including site development and associated fixed equipment);
- iii) extensive remodeling and/or rehabilitation work on site improvement; and
- iv) utilities, lines, fees, tapping fees, meter fees and other expenses not related to normal daily consumption.
- F) Expenditures for repayment of principal on funds borrowed by the applicant.
- 3) If the amount of operating expenditures claimed by the applicant under this Part is not the same as a reported expense amount on the audited financial statement, the applicant shall prepare a detailed written explanation in order to reconcile the two. This explanation shall describe the amount and purpose of each expense added to or subtracted from the amount reported.

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- d) Before making a determination of the amount of contribution which the applicant shall receive under this Part, the Department shall deduct from the average operating expenditures of each applicant the average amount of any contributions which were awarded to the applicant under the Act for its use during each of the two years preceding the application.
- e) The Director shall determine and approve the amount that each eligible applicant receives as contribution under this Part.

(Source: Repealed at 23 Ill. Reg. 11926, effective SEP 15 1999)

Section 3200.40 Application Procedure

- a) Any public museum applicant seeking a grant for capital purposes in the current year financial contribution under this Part shall send 5 (five) copies of a completed application supplied by each of the following documents to the Director of the Department, and one copy of each attachment, of Natural Resources that includes: 7-070-111005 State Museum, Spring and Edwards Streets, Springfield, Illinois 62706; Attention: Museum Aid Program.
- 1) Application Form.
- 2) A Certification Statement notarized letter of application executed by the chief executive officer of the public museum that states that the museum is in compliance with the eligibility criteria of this program, institution which certifies that the applicant
- A) maintains its tax exempt status under the regulations of the U.S. Internal Revenue Service; and
- B) is operated by or located upon land which is owned by a unit of local government; and
- C) has accurately determined the amount of operating expenditures which are identified on Attachment B of the application; and
- B) has and will continue to use any contributions received pursuant to the Act only for operating and/or capital expenditures.
- 3) Project Narrative Statement. A completed information form shall be appended to the application as Attachment A.
- 4) Development Data Form including costs, a conceptual plan, and construction schedule. The annual report of the applicant for the year preceding its application (provide as Attachment B.)
- 5) Land Acquisition Data, if applicable. The audited financial statements of the applicant prepared by a certified public accountant for the two years preceding the application and the written reconciliation statement if required by Section 3200.30(f)(3) (provide as Attachment C.)
- 6) The annual report of the public museum for the year preceding its

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application.
 7) Cultural Resources, Endangered Species and Wetlands Review Report (CERP).

8) If funds are to be distributed by the Department to a fiscal agent on behalf of the public museum, a certification statement must be signed by the chief executive officer of the public museum. The certification will state:

A) that there is an ongoing relationship between the museum and the fiscal agent;

B) that the fiscal agent may incur expenses for the museum's project; and

C) that grant funds will be used specifically for that project.
 5) A written statement signed by the applicant's chief financial officer which states that the amount of operating expenditures claimed in accordance with Section 3200.60(c) is accurate and complies with this Part.

b) Public museums may submit only one application during an application period. An application shall be made between January 1 and March 30 of each year when appropriations have been made available to the Department for distribution under this Part.

(Source: Amended at 23 Ill. Reg. 11926, effective

SEP 15 1999)

Section 3200.50 Application Schedule Use of Grant Funds

Applications for funding assistance will be accepted each year on a schedule announced publicly by the Department when appropriations have been made available for distribution under this program. Specific application guidelines will be available from the Department at that time. The Department shall announce the maximum grant award in conjunction with announcing the annual grant application schedule. Once received, the recipient may use the grant funds for operating and/or capital expenditures.

(Source: Amended at 23 Ill. Reg. 11926, effective

SEP 15 1999)

Section 3200.60 Review Criteria and Selection Procedure

a) Technical and Program Review

Department staff will review the project application for:

- 1) Completeness of application.
- 2) Evidence that the public museum meets all eligibility criteria, as defined in Section 3200.20.
- 3) Project's feasibility with regard to operational capacities of the public museum.
- 4) Adequacy of cost estimates and construction schedule estimates.
- 5) Meeting community needs.

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- 6) Effectively enhancing the museum's educational mission.
- 7) Expanding audiences, including reaching underserved groups.
- 8) Compliance with requirements of previous grant awards.

b) Peer Review Panel

- 1) The Director will appoint a panel of 5 citizens with backgrounds and experience relevant to the activities of museums and their educational contributions who will review proposals and then make recommendations for funding. Such citizens shall not be current employees of any museums in the State of Illinois that are eligible to apply for this grant program. The Director shall have the authority to call upon the expertise of non-residents of the State for additional advice on the program and its administration.

2) Names of candidates for the peer review panel will be solicited from museums throughout Illinois.

c) Staff Recommendation

Department staff will evaluate proposals based on criteria outlined above, consider recommendations from the peer review panel, and recommend to the Director priorities for funding.

(Source: Added at 23 Ill. Reg. 11926, effective SEP 15 1999)

Section 3200.65 Awards

a) Award Limit. The Department shall establish on an annual basis the maximum grant award a public museum may receive; however, the maximum grant award shall be no more than 10% of the annual appropriation, excluding funds that may be reappropriated from a preceding year. The Department shall announce the maximum grant award in conjunction with announcing the annual grant application schedule.

b) Reappropriation of Funds. Reappropriation of funds will be sought for projects approved for funding that have not been completed and reimbursement sought in the fiscal year that the project was approved.

(Source: Added at 23 Ill. Reg. 11926, effective SEP 15 1999)

Section 3200.70 Eligible Expenses

Eligible Expenses are defined as:

- a) Expenses that meet the definition of Capital Expenditures as defined in Section 3200.10.
- b) Expenses that are pursuant to the scope of work as agreed upon and approved by the Department. The State's one-third match can only be used for capital expenditure costs incurred after July 1 of the fiscal year in which the grant award is made. Expenditures incurred back to July 1, 1998 may be eligible for reimbursement if the public museum

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received a capital grant in FY99 and if the proposed project is an integral component of the FY99 project and was not reimbursed in the FY99 grant award.

- c) Expenses incurred directly by the public museum, or expenses incurred specifically for the public museum's project by the museum's fiscal agent.

(Source: Added at 23 Ill. Reg. 11 926, effective SEP 15 1999)

Section 3200.80 Process for Payment

- a) The public museum or fiscal agent representing the public museum enters into a Project Agreement with the Department.

- b) Public museums who have been awarded capital grants must submit project billing requests (expenditure statements), certified by the public museum's chief executive officer or chief financial officer, listing and verifying all funds expended on the project for which grant reimbursement is sought; as well as required billing documentation as follows:

- 1) Acquisition of Property: Proof of good faith negotiations or fair market value offer to land seller, copy of warranty deed (Judgment Order in case of condemnation and title insurance for any deed less than warranty) showing ownership transferred to the local project sponsor, and copies of documents showing proof of payment to seller.

- 2) Development of Permanent Improvements: Copy of receipts/invoices for project costs, and copy of documents showing proof of payment.

(Source: Added at 23 Ill. Reg. 11 926, effective SEP 15 1999)

Section 3200.90 Program Information/Contact

Illinois State Museum, Museum Grant's Office
Spring and Edwards Streets
Springfield IL 62706-5000
Phone: 217.782.5992
email: museumgrants@museum.state.il.us

(Source: Added at 23 Ill. Reg. 11 926, effective SEP 15 1999)

SUBPART B: PUBLIC MUSEUM OPERATING GRANT RULES

Section 3200.100 Definitions

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"Care" means the keeping of adequate records pertaining to the provenance, identification and location of the museum's holdings, and the application of current professionally accepted methods to their security and to the minimization of damage and deterioration.

"Community" means the population base normally served by the museum.

"Department" means the Illinois Department of Natural Resources.

"Director" means the Director of the Department.

"Fiscal Agent" means an affiliated entity which may expend and receive funds on behalf of the public museum. A certification statement must be signed by the chief executive officer of the public museum if grant funds are to be distributed to a fiscal agent on behalf of the public museum. The certification shall state:

that there is an ongoing relationship between the museum and the fiscal agent;

that the fiscal agent may incur expenses for the museum's project; and

that grant funds will be used specifically for the public museum project.

"Museum Education Program" means utilizing the resources of the museum for formal or informal learning opportunities for school children, teachers, or other citizens through face to face interactions or through educational technology, including educational technology partnerships. The public museum shall have at least one employee who devotes the preponderance of his/her time to offer "Museum Education Programs". This person is expected to command an appropriate body of special knowledge in museum education consonant with the experience of his or her peers, to have access to and acquaintance with the literature of the field, and to work sufficient hours to meet adequately the current demands for museum educational services.

"Nonprofit" means that the public museum has documentary evidence of its tax-exempt status under the regulations of the U.S. Internal Revenue Service.

"Operating Expenditures" means funds actually expended by a public museum or its fiscal agent for the recurring day-to-day expenses that are ordinary and necessary to maintain and operate the facility for its principal purpose as a public museum. These expenditures shall include:

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the total amount of program and supporting services expenses (management and general) and fundraising expense that is reported on the entity's audited financial statements;

depreciation expense for the buildings, movable equipment, and other types of personal property; and

interest expenses on funds borrowed to finance operating expenditures.

"Organized" means that the public museum is a duly constituted body with expressed responsibilities.

"Permanent" means that the public museum has existed for at least 2 years and is expected to continue in perpetuity.

"Professional Staff" means that the public museum has at least one paid employee who commands an appropriate body of special knowledge and the ability to reach museological, zoological, aquarium, or botanical (whichever shall be applicable) decisions consonant with the experience of his or her peers, who has access to and acquaintance with the literature of the field, and who works sufficient hours to meet adequately the current demands of administration and care.

"Public Museum" means a facility that has been open to the public, for its instruction and enjoyment, for at least two years and that is operating for the purposes of promoting cultural development through special activities or programs, and acquiring, conserving, preserving, studying, interpreting, enhancing, and, in particular, organizing and continuously exhibiting (subject to temporary interruption due to construction or catastrophe) specimens, artifacts, articles, documents and other things of historical, anthropological, archaeological, industrial, scientific or artistic import.

"Schedule" means regular and predictable hours that constitute substantially more than a token opening, so that access is reasonably convenient to the public (subject to temporary interruption due to construction or catastrophe).

"Tangible Objects" means specimens, artifacts, articles, documents; non-domesticated plants or animals, including fish; and other things of historical, anthropological, archeological, industrial, scientific or artistic import that form the public museum's collections and have intrinsic value to history, science, art or culture.

"Unit of Local Government" means counties, municipalities, townships, special districts and units, designated as units of local government by Illinois law, that exercise limited governmental power or powers in

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respect to limited governmental subjects, but does not include school districts.

(Source: Added at 23 Ill. Reg. 11926, effective SEP 15 1999)

Section 3200.110 Purpose

The Public Museum Operating Grants Program is designed to improve and enhance the capacity of public museums with established educational programs to more effectively utilize their museum resources to supplement the learning process of Illinois school children. The program is designed to support formal or informal learning opportunities for school children, teachers, or other citizens through direct interactions or through educational technology, including education partnerships.

(Source: Added at 23 Ill. Reg. 11926, effective SEP 15 1999)

Section 3200.120 Eligibility Criteria for Applicant Facilities

Any public museum located in Illinois shall be eligible for financial support through the operating grant program for its museum education program if it establishes to the reasonable satisfaction of the Director that:

- a) It is a public museum that is operated by or located upon land owned by a unit of local government or has an annual attendance of at least 150,000 and offers educational programs to school groups during school hours;
- b) It is an organized, permanent institution that is tax exempt under the regulations of the U.S. Internal Revenue Service;
- c) It meets generally accepted professional standards as in the accreditation programs of the American Association of Museums, American Zoo and Aquarium Association, American Association of Botanical Gardens and Arboretums and other appropriate organizations;
- d) It has a professional staff;
- e) It cares for and owns or utilizes tangible objects;
- f) It is open to the public on a regular schedule;
- g) It devotes the majority of its floor space or grounds and professional staff effort to museological purposes;
- h) It has an established Museum Education Program; and
- i) It has filed timely reports and complied with requirements for previous grant awards.

(Source: Added at 23 Ill. Reg. 11926, effective SEP 15 1999)

Section 3200.130 Application Procedure

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a) Any public museum seeking a grant for operating purposes under this Part shall submit 3 copies of the completed application forms supplied by the Department, and one copy of each attachment, that includes:

- 1) An Application Form;
- 2) A narrative statement describing the museum's education program and how the financial assistance will enhance the museum education program;
- 3) A statement describing the qualifications of the educator in charge of the program (including the curriculum vitae);
- 4) A brochure describing educational offerings or school services (if available);
- 5) The annual report of the public museum for the year preceding its application;
- 6) A certification statement executed by the public museum's chief executive officer that certifies that the public museum is in compliance with the eligibility criteria of this program;
- 7) A certification statement signed by the public museum's chief financial officer that states that the amount of operating expenditures claimed in accordance with Section 3200.160 of this Part is accurate and complies with this Part;
- 8) The audited financial statements of the public museum prepared by a certified public accountant for the 2 years preceding the public museum's application and the written reconciliation statement as required by Section 3200.160(c)(3) of this Part. Grants to museums without audited financial statements will be limited to the minimum award;
- 9) An audit statement from an affiliated entity, or a letter of certification listing expenditures and signed by the chief executive officer of the affiliated entity if expenditures have been made by the affiliate on behalf of the public museum and claimed by the public museum as operating expenditures;
- 10) If funds are to be distributed by the Department to a fiscal agent on behalf of the public museum, a certification statement must be signed by the chief executive officer. The certification shall reflect:
 - A) that there is an ongoing relationship between the museum and the fiscal agent;
 - B) that the fiscal agent may incur expenses for the museum's project; and
 - C) that grant funds will be used specifically for the museum project.
- b) Public museums may submit only one grant application during an application period.

(Source: Added at 23 Ill. Reg. 11 926, effective SEP 15 1999)

Section 3200.140 Application Schedule

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Applications for funding assistance will be accepted each year on a schedule announced publicly by the Department when appropriations have been made available for distribution under this program. Specific application guidelines will be available from the Department at that time.

(Source: Added at 23 Ill. Reg. 11 926, effective SEP 15 1999)

Section 3200.150 Review Procedure

Submissions from museums will be reviewed to ensure that:

- a) the public museum meets all eligibility criteria, as defined in Section 3200.120;
- b) the public museum has an established museum education program and that financial assistance from the Museum Operating Grants Program will support a project that will improve and enhance the museum education program;
- c) the public museum meets generally accepted professional standards (as in the accreditation programs of the American Association of Museums, American Zoo and Aquarium Association, American Association of Botanical Gardens and Arboretums, and other appropriate organizations); and
- d) the public museum has complied with requirements of previous grant awards.

(Source: Added at 23 Ill. Reg. 11 926, effective SEP 15 1999)

Section 3200.160 Method for Awarding Grants

a) Contribution Amount - Each eligible public museum applying for financial assistance pursuant to this Part may receive financial assistance in an amount determined by the following formula:

- 1) A proportionate amount equal to the fraction obtained by dividing the applicant's average operating expenditures by the aggregate operating expenditures of all eligible applicants, except that:
 - A) The administrative costs to operate the program, not to exceed 5% of the total appropriation, will be deducted from the appropriation before calculating the awards to determine the amount remaining for financial assistance.
 - B) No qualifying museum may receive more than 10% of the amount remaining for financial assistance after administrative costs are deducted.
 - C) Except as provided in subsection (a)(3) below, no qualifying museum may receive less than 0.2% of the amount remaining for financial assistance after administrative costs are deducted.
 - D) No qualifying museum may receive more than 50% of its total

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- operating budget.
- 2) In the event there is a balance left after the awards have been computed, the surplus will be allocated to museums on a prorated basis. The surplus balance shall be allocated proportionately to those museums not receiving the minimum or maximum awards from the initial computations. No museum may receive more than 10% of the amount remaining for financial assistance, after administrative costs have been deducted, and no museum may receive more than 50% of its total operating budget.
- 3) In the event there is a deficit after the awards have been computed, the amount of the deficit will be prorated against all awards. The amount of deficit prorated to each award will be calculated by taking the initial award allocations as calculated above, including the adjustments for minimums and maximums divided by the aggregate awards to determine the allocation fraction and applying it to the deficit. The result will be subtracted from the initial award amount.
- b) Allocation Procedure - A contribution amount shall be determined by the following sequence of procedures:
- 1) The total operating expenditures of each public museum during its 2 fiscal years preceding its application shall be divided by 2 in order to determine the amount of average operating expenditures of each public museum;
- 2) The average operating expenditures of all eligible public museums shall be added together in order to determine the amount of aggregate operating expenditures of all public museums;
- 3) The average operating expenditures of each public museum shall be divided by the aggregate operating expenditures of all public museums in order to determine the allocation fraction of each public museum:
- A) If the allocation fraction is more than 10% of the amount remaining for financial assistance, the award will be adjusted as required in subsection (a)(1)(B).
- B) If the allocation fraction is less than 0.2% of the amount remaining for financial assistance, the award will be adjusted as defined in subsection (a)(1)(C).
- c) Operating Expenditures - For purposes of this Part, the amount of operating expenditures, as defined in Section 3200.100, shall be derived by the public museum from the total amount of program and supporting services expense that is reported on its audited financial statement. However, to accommodate variations among applicants in accounting methods and expense descriptions on the financial statements, each public museum shall examine its financial statements in conformity with subsections (c)(1) and (2).
- 1) Operating expenditures may specifically include the following or similar type of expenses:
- A) Expenditures from restricted and unrestricted accounts that are ordinary and necessary for the public museum's routine

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- day-to-day operations, including salaries and benefits, products and services, and routine maintenance and repairs. Restricted funds are those whose use is restricted by outside agencies or persons as contrasted with funds over which the organization has complete control and discretion. Unrestricted funds are those that have no external restriction on their use or purpose, that is, funds that can be used for any purpose designated by the governing board as distinguished from funds restricted externally for specific purposes (for example, operations, plant, and endowment).
- B) The depreciation expense for capital assets may be included.
- C) All expenditures from current restricted accounts that qualify as operating expenditures as defined under this subsection (c). Excluded from operating expenses are the capital expenditures listed in subsection (c)(2)(E). For example, expenditures related to the development of museum exhibitions and displays may be included even if made from a fund that is limited for this purpose. Expenditures from restricted accounts for preliminary planning or schematic design work are also allowable, including architectural, engineering, design, and consultant fees related to routine maintenance or rehabilitation.
- D) Direct expenditures made on behalf of the public museum by an affiliated entity, provided that they are ordinary and necessary for the day-to-day operations of the public museum and are separately itemized and verified in writing by the chief executive officer or chief financial officer of affiliated entity. As used in this subsection (c)(1)(D), "direct expenditures" means expenditures that are identified specifically with the public museum and are incurred by the affiliated entity only for the museum's project.
- E) The depreciation expense for movable equipment and other types of personal property may be included.
- F) Interest expenses on funds borrowed by the public museum to finance expenditures that are otherwise allowable under this Part.
- G) Expenses incurred by the public museum for the cost of educational, food service and gift shop activities may be included in the operating expenditure total. The receipts from these activities should not be deducted from the expenditure total.
- 2) Operating expenditures shall not include any of the following or similar types of expenses:
- A) Transfers made to or between the public museum's accounts or funds;
- B) Losses or other costs associated with loans and/or investments made by the public museum;
- C) Expenses for the direct and indirect costs of programs

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operated by the public museum that are unrelated to museological purposes. For example, the costs of salaries, equipment, facilities and other direct and indirect costs of a school with a regular curriculum that is run by the public museum are not allowable;

D) Capital expenditures from restricted accounts, including but not limited to:

- i) real property;
- ii) buildings, additions and/or structures (including site development and associated fixed equipment);
- iii) extensive remodeling and/or rehabilitation work or site improvement; and
- iv) utilities - lines fees, tapping fees, meter fees and other expenses not related to normal daily consumption;

E) Expenditures for repayment of principal on funds borrowed by the public museum.

3) If the amount of operating expenditures claimed by the public museum under this Part is not the same as a reported expense amount on the audited financial statement, the public museum shall prepare a reconciliation statement. This explanation shall describe in detail for the reviewer to understand the amount and purpose of each expense added to or subtracted from the amount of expense reported in the audited financial statements in arriving at operating expense.

d) The Director shall determine and approve the amount that each eligible public museum receives as contribution under this Part.

(Source: Added at 23 Ill. Reg. 11926, effective SEP 15 1999)

Section 3200.165 Process for Payment

a) Upon completion and processing of the Department's Project Agreement, award payments will be issued.

b) Submission of a report to the Department describing how grant funds were expended and the results of such expenditures will be required as delineated in the project agreement.

(Source: Added at 23 Ill. Reg. 11926, effective SEP 15 1999)

Section 3200.170 Program Information/Contact

For additional information on the public museum operating grant rules contact:

Illinois State Museum, Museum Grants Office
Spring and Edwards Streets

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Springfield IL 62706-5000

Phone: 217.782.5992; Fax: 217.782.1254

email: museumgrants@museum.state.il.us

(Source: Added at 23 Ill. Reg. 11926, effective SEP 15 1999)

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1) Heading of the Part: The Taking of Wild Turkeys - Spring Season

2) Code Citation: 17 Ill. Adm. Code 710

3) <u>Section Numbers:</u>	<u>Adopted Action:</u>
710.10	Amendments
710.20	Amendments
710.22	Amendments
710.30	Amendments
710.50	Amendments

4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10 and 2.11].

5) Effective Date of Amendments: September 21, 1999

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: July 2, 1999, 23 Ill. Reg. 7417

10) Has JCAR issued a Statement of Objections to these amendments? No

11) Differences between proposal and final version:

Section 710.20(e) - a comma was added following "only one permit"

Section 710.22(d) - "which the person to whom it is issued" was replaced with "the permit holder"

Section 710.30(k) - "the 1st" was added prior to "turkey season" in two places

Section 710.50(c) - the spelling of "Momense" was corrected to read "Momence"

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace an emergency amendment currently in effect?
No

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14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: The amendments to this Part change hunting season dates, open additional sites to hunting, and amend existing requirements.

16) Information and questions regarding these adopted amendments shall be directed to:

Jack Price
Department of Natural Resources
524 S. Second Street, Room 430
Springfield IL 62701-1787
217/782-1809

The full text of the adopted amendments begins on the next page:

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- a) Northern Zone Season Dates:
- 1st Season: Monday, April 10~~12~~ - Friday, April 14, 2000~~167~~
1999
- 2nd Season: Saturday, April 15~~17~~ - Thursday, April 20, 2000~~167~~
1999
- 3rd Season: Friday, April 21~~23~~ - Friday, April 28, 2000~~167~~
1999
- 4th Season: Saturday, April 29~~May--1~~ - Wednesday, May 10,
2000~~127-1999~~
- b) Southern Zone Season Dates:
- 1st Season: Monday, April 35 - Friday, April 7, 2000~~97-1999~~
- 2nd Season: Saturday, April 8~~10~~ - Thursday, April 13,
2000~~157-1999~~
- 3rd Season: Friday, April 14~~16~~ - Friday, April 21, 2000~~237~~
1999
- 4th Season: Saturday, April 22~~24~~ - Wednesday, May 3, 2000~~57~~
1999

- c) Open Counties:
- NORTHERN ZONE
- Adams
Boone
Brown
Bureau
Calhoun
Carroll
Cass
Christian
Clark
Coles
Cumberland
DeKalb
Edgar
Fulton
Greene
Grundy
Hancock
Henderson
Henry
Jersey

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- TITLE 17: CONSERVATION
- CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES
- SUBCHAPTER e: LAW ENFORCEMENT
- PART 710
- THE TAKING OF WILD TURKEYS - SPRING SEASON
- Section
- 710.5 Hunting Zones
- 710.10 Hunting Seasons
- 710.20 Statewide Turkey Permit Requirements
- 710.21 Turkey Permit Requirements - Special Hunts (Renumbered)
- 710.22 Turkey Permit Requirements - Landowner/Tenant Permits
- 710.25 Turkey Permit Requirements - Special Hunts
- 710.28 Turkey Permit Requirements - Heritage Youth Turkey Hunt
- 710.30 Turkey Hunting Regulations
- 710.40 Other Regulations (Repealed)
- 710.50 Regulations at Various Department Owned or Managed Sites
- 710.55 Special Hunts for Disabled Hunters
- 710.60 Releasing or Stocking of Turkeys

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10 and 2.11].

SOURCE: Adopted at 4 Ill. Reg. 15, p. 153, effective April 1, 1980; codified at 5 Ill. Reg. 10643; amended at 6 Ill. Reg. 3852, effective March 31, 1982; amended at 7 Ill. Reg. 4208, effective March 25, 1983; amended at 8 Ill. Reg. 5663, effective April 16, 1984; amended at 9 Ill. Reg. 6200, effective April 24, 1985; amended at 10 Ill. Reg. 6848, effective April 4, 1986; amended at 11 Ill. Reg. 2267, effective January 20, 1987; amended at 12 Ill. Reg. 5342, effective March 8, 1988; amended at 13 Ill. Reg. 5090, effective April 4, 1989; amended at 14 Ill. Reg. 663, effective January 2, 1990; amended at 15 Ill. Reg. 4161, effective March 4, 1991; amended at 16 Ill. Reg. 1843, effective January 17, 1992; amended at 17 Ill. Reg. 3184, effective March 2, 1993; amended at 18 Ill. Reg. 1156, effective January 18, 1994; emergency amendment at 18 Ill. Reg. 3751, effective March 1, 1994, for a maximum of 150 days; emergency expired July 29, 1994; amended at 19 Ill. Reg. 2450, effective February 17, 1995; emergency amendment at 19 Ill. Reg. 5312, effective April 1, 1995, for a maximum of 150 days; emergency expired August 29, 1995; amended at 20 Ill. Reg. 777, effective December 29, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 21 Ill. Reg. 3125, effective March 3, 1997; amended at 22 Ill. Reg. 2192, effective January 2, 1998; amended at 22 Ill. Reg. 19568, effective October 23, 1998; amended at 23 Ill. Reg. 11956, effective

SEP 21 1999

Section 710.10 Hunting Seasons

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Jo Daviess
 Kankakee
 Knox
 LaSalle
 Lee
 Logan
 Macoupin
 Marshall-Putnam
 Mason
 McDonough
 Menard
 Mercer
 Montgomery
 Morgan
 Ogle
 Peoria
 Pike
 Rock Island
 Sangamon
 Schuyler
 Scott
 Shelby
 Stark
 Stephenson
 Tazewell
 Vermilion
 Warren
 Whiteside
 Winnebago
 Woodford
 SOUTHERN ZONE
 Alexander
 Bond
 Clay
 Clinton
 Crawford
 Edwards
 Effingham
 Fayette
 Hamilton
 Gallatin-Hardin
 Jackson
 Jasper
 Jefferson
 Johnson
 Lawrence
 Madison

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Marion
 Massac
 Monroe
 Perry
 Pope
 Pulaski
 Randolph
 Richland
 Saline
 St. Clair
 Union
 Wabash
 Washington
 Wayne
 White
 Williamson

(Source: Amended at 23 Ill. Reg. 11956, effective
 SEP 21 1999)

Section 710.20 Statewide Turkey Permit Requirements

- a) To take, or attempt to take, a wild turkey, Illinois residents must first obtain a "Wild Turkey Hunting Permit" from the Department of Natural Resources for a fee of \$15.00. Non-resident turkey hunters shall be charged \$75.00 for the first wild turkey hunting permit, and \$25.00 for each additional permit. Residents, except those exempted by Section 3.1 of the Wildlife Code [520 ILCS 5/3.1] are also required to obtain a hunting license before hunting wild turkey. Permits are issued for a specific county or area and are valid only in the county or area designated on the permit. Applications for wild turkey permits must be mailed to:

Department of Natural Resources - Turkey
 524 S. Second Street, Room 210

P.O. Box 19446

Springfield, Illinois 62794-9446

- b) Applicants must complete all portions of the permit application form. Incomplete applications will be rejected and fees returned. Each applicant must submit a personal check or money order for his/her individual application. Not more than 4 applications may be submitted for group hunters. Applicants submitting applications within three weeks of the season will not be guaranteed receipt of permit by start of season.
- c) Applications from Illinois residents will be accepted through December 1. Applications received in the permit office after December 1 will be included in the next computerized drawing. All requests must be on an official application form. Permits are not transferable and refunds will not be granted. Permits will be allocated in a

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computerized drawing to be held in Springfield. Applicants rejected in this drawing will receive preference in the next year's drawing for spring season permits subject to guidelines outlined in subsection (g).

- d) Permits not issued during the first computerized drawing will be available in a second computerized lottery drawing. Applications for this drawing will be accepted through the first working day after January 10. Applications received after this date will be included in the next drawing. All hunters not receiving a permit in the first computerized drawing and non-residents may apply at this time for the available permits.

- e) ~~Any permits remaining after the second lottery drawing will be available in a third lottery drawing to any hunter who has not received a permit, and to hunters that have received only one permit, may apply for a first or a second permit in a third computerized lottery drawing for the remaining permits. Applications for this third drawing will be accepted through the first working day after February 8. Applications received after this date will be included in the next drawing.~~

- f) Permits remaining after the three lotteries will be available in a random daily drawing that begins the first working day after March 8. All applications received on or before the first working day after March 8 will be processed in the first daily drawing. This drawing period is open to hunters applying for their first, second, or third permits.

- g) The following criteria must be met to obtain preference in the first computerized drawing:

- 1) The applicant must apply using the official agency application.
- 2) The applicant must be a resident of the State, be eligible to receive a spring turkey permit, and not had turkey hunting privileges revoked.
- 3) The applicant must apply for the same county and season choices which he/she listed on the previous year's application. Preference will not be granted for special hunt areas as listed in Section 710.25 or for permit areas listed in Section 710.50(c).

- h) A \$3 service fee will be charged for replacement permits issued by the Department.

- i) The periods for accepting applications for the first three lotteries may be extended if applications are not available to the public by November 1. A news release will announce the extension of the application periods.

j) It shall be unlawful to:

- 1) Submit applications before the second computerized lottery drawing for more than one permit for the same person, and thereafter, submittal of applications for receiving more than three permits for the same person.
- 2) Submit applications before the third computerized lottery drawing

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for more than two permits for the same person.

- 3) Apply for or receive more than three permits for the spring turkey season.
- 4) Provide false and/or deceptive information on a permit application form. In addition to criminal charges, individuals found guilty of violating this section shall have their application rejected, permit revoked, and fees forfeited.

(Source: Amended at 23 Ill. Reg. 11956, effective SEP 21 1989)

Section 710.22 Turkey Permit Requirements - Landowner/Tenant Permits

- a) The "immediate family" is defined as the spouse, children, and parents permanently residing on the same property as the landowner or tenant.
- b) A tenant for the purpose of this Part is one who rents 40 acres or more land for commercial agricultural purposes under an agreement with a landowner. Commercial agriculture shall be defined as utilization of land for the raising of hay, grain crops or livestock for profit. A hunting rights lease, or other non-agricultural lease, is not valid for a landowner or tenant permit.

- c) Resident landowners who own 40 acres or more of land, and resident tenants renting or leasing 40 acres or more of commercial agricultural land, and members of their immediate family may apply for one free turkey permit for their property only in counties open for turkey hunting. All resident landowners/tenants that do not reside on the property must possess a valid hunting license. Non-resident Illinois landowners of 40 or more acres of land and members of their immediate family are eligible to receive a permit for their property only for a fee of \$37.50.

- d) Landowners or tenants are not required to participate in the public drawing for permits. Landowner/tenant permits are valid for the entire 31 days encompassed by the 4 seasons, but allow the taking of only one wild turkey. This turkey hunting permit shall be valid on all lands the permit holder owns, leases, or rents in counties open for spring turkey hunting.

- e) Recipients of Landowner/Tenant permits to hunt their owned or leased property may apply for a second permit in the third lottery (the first working day after February 8), and a third permit in the Random Daily Drawing period that begins the first working day after March 8. Fees for these additional permits shall be \$15 for residents and \$25 for nonresidents.

- f) Proof of ownership for all landowner or tenant applications must be provided by one of the following methods:

- 1) Submittal of a copy of property deed;
- 2) Submittal of a copy of contract for deed;
- 3) Submittal of copy of most recent real estate tax statement upon which landowner's name appears;

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- 4) Submittal of a copy of a Farm Service Agency 156EZ form; or
 5) Submittal of a copy of trust agreement which must indicate that the trust owns at least 40 acres and the applicant is a current income beneficiary of the trust.

g) If you are applying for a tenant permit, you are required to submit, in addition to the landowner certification and proof of ownership, a copy of one of the following:

- 1) Submittal of a copy of a lease (not a hunting rights lease) or rental agreement, file stamped as recorded by the County Clerk, covering the current year; or

- 2) Submittal of a copy of a Farm Service Agency 156EZ form.

h) If the property is owned or rented by more than one person: Only one landowner (and his immediate family) or one tenant (and his immediate family) will be issued a permit for every 40 acres of owned or rented land. For example, if 3 persons own 90 acres, only 2 of the landowners and their immediate families may receive turkey permits.

i) Shareholders of corporations owning 40 or more acres of land in a county may apply for a free permit to hunt the corporation lands only. Only one permit per 40 acres, for a maximum number of 15 permits per county, shall be issued based on ownership of lands by corporations. Lands leased to corporations shall not be considered as a basis for a free permit for the shareholders of the lessee. Lands held in trust by corporations shall not be considered as a basis for a free permit by the shareholders of the trustee. If application is made for a free permit based upon lands owned by the corporation, a duly authorized officer of the corporation must sign a notarized statement authorizing the applicant to hunt on the corporate lands for which a permit is being requested. This statement must identify the applicant as a shareholder, identify authorization to hunt and identify that no more than 15 authorizations will be requested per county for the corporation lands. This document must be attached to the application upon submittal to the Permit Office.

(Source: Amended at 23 Ill. Reg. 11.956, effective SEP 21 1999)

Section 710.30 Turkey Hunting Regulations

It is unlawful:

- a) to use live turkey decoys, recorded calls, dogs, or bait (an area is considered as baited during the presence of and for 10 consecutive days following the removal of the bait);
 b) to take any wild turkey except a hen with a visible beard or a gobbler (male);
 c) to take, or attempt to take, more than three wild turkeys during the spring season, one must have a valid permit for each turkey that is taken;
 d) to use any weapon except a shotgun or bow and arrow. #4 shot is the

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largest and #7 1/2 is the smallest size shot that may be legally used. Archers may use a long, recurved, or compound bow with a minimum pull of 40 pounds at some point within a 28-inch draw. Minimum arrow length is 20 inches and broadheads must be used. Broadheads may have fixed or expandable blades, but they must be barbless and have a minimum 7/8 inch diameter when fully opened. Broadheads with fixed blades must be metal or flint-, chert-, or obsidian-napped; broadheads with expandable blades must be metal. Any mechanical device capable of maintaining a drawn position or partially drawn position on a bow is illegal. All other bows and arrows, including electronic arrow tracking systems, are illegal;

e) to hunt except from 1/2 hour before sunrise to noon during each day of the season;

f) for any person having taken the legal limit of wild turkey(s) to further participate with a weapon in any hunting party for the purpose of taking additional wild turkeys;

g) for any person to possess while in the field during wild turkey season any turkey permit issued to another person (permits are non-transferable);

h) to transport or leave a wild turkey without first affixing the adhesive-backed turkey permit securely around the leg. Leg tag must be affixed to the turkey immediately upon kill and before the turkey is moved, transported or field dressed. The wild turkey shall be taken whole (or field dressed) to the designated check station for the county in which it was killed, or the closest check station, by the hunter in person, by 2:00 P.M. the same day it was killed. It will be checked, tagged and recorded by the Department at the check station. The leg tag must remain attached to the leg of the turkey until it is at the legal residence of the person who legally took or possessed the turkey;

i) for any person to shoot a wild turkey while it is in a tree before 7:00 a.m.;

j) for any person to hunt wild turkeys without possessing a Wild Turkey Hunting Permit which shall include the hunter's signature recorded on the permit and carried on the person while hunting;

k) for any person to use a turkey call that imitates sounds made by a turkey or to attempt to call a turkey by making these sounds while in the field in the Southern Zone from March 15 through the day before the 1st turkey season and in the Northern Zone from March 22 through the day before the 1st turkey season. This prohibition only applies in counties open to spring turkey hunting ~~in counties open--to--turkey~~ hunting.

(Source: Amended at 23 Ill. Reg. 11.956, effective SEP 21 1999)

Section 710.50 Regulations at Various Department Owned or Managed Sites

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- a) Hunters must sign in/sign out at all sites in subsections (b) and (c) which are followed by a (1).
- b) Statewide regulations shall apply for the following sites:

Anderson Lake Conservation Area (1)

Argyle Lake State Park (1)

Cache River State Natural Area (1)

Campbell Pond Wildlife Management Area

Carlyle Lake Wildlife Management Area

Cypress Pond State Natural Area (1)

Dog Island Wildlife Management Area (1)

Ferne Clyffe State Park - Cedar Draper Bluff Hunting Area (1)

Fort de Chartres State Historic Site (muzzleloading shotgun or archery only) (1)

Franklin Creek State Park (1)

Giant City State Park (1)

Horseshoe Lake Conservation Area - Alexander County (controlled goose hunting area and public hunting area only)

I-24 Wildlife Management Area (1)

Jubilee State Park (archery only) (1)

Kaskaskia River State Fish and Wildlife Area (except for that area lying north of Highway 154, east of the Kaskaskia River, and south of the Risdon School Road and Beck's Landing access road) (1)

Kinkaid Lake Fish and Wildlife Area (1)

Mark Twain National Wildlife Refuge, Gardner Division

Mississippi River Fish and Wildlife Area (Pools 25 and 26)

Mississippi River Pools 16, 17, 18, 21, 22, and 24

Oakford Conservation Area

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Pere Marquette State Park (designated area only) (1)

Ray Norbut Fish and Wildlife Area (1)

Rend Lake State Fish and Wildlife Area

Saline County Fish and Wildlife Area (1)

Sanganois Conservation Area (site issued free permit required)

Sielbeck Forest State Natural Area (1)

Trail of Tears State Forest (1)

Turkey Bluffs State Fish and Wildlife Area (1)

Union County Conservation Area - Firing Line Unit and Public Hunting Area only (1)

Weinberg-King State Park (1)

Wildcat Hollow State Forest (1)

c) Statewide regulations shall apply except that all hunting is allowed by site-specific permit only. The Department of Natural Resources allocates permits for these areas through the lottery process set forth in Section 710.20. This permit is only valid for the specific site and season indicated on the permit.

Apple River Canyon State Park - Thompson and Salem Units (1)

Beaver Dam State Park

Big Bend State Fish and Wildlife Area (1)

Big River State Forest (1)

Castle Rock State Park (1)

Chauncey Marsh

Coffeen Lake State Fish and Wildlife Area

Crawford County Conservation Area

East Conant

Ferne Clyffe Hunting Area (1)

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Fort Massac State Park (Youth Ages 10-15 only) (1)
 Fox Ridge State Park (1)
 Green River State Wildlife Area (1)
 Hamilton County Conservation Area
 Harry 'Babe' Woodyard State Natural Area (1)
 Hidden Springs State Forest (first 2 seasons only) (1)
 Hurricane Creek Habitat Area (must have Fox Ridge State Park permit) (1)
 Johnson-Sauk Trail State Park (1)
 Kickapoo State Park (1)
 Lake Shelbyville-Corps of Engineers Managed Lands (Shelby County)
 Lowden Miller State Forest (1)
 Mackinaw River Fish and Wildlife Area (1)
 Marselles Fish and Wildlife Area (site is open to hunting Monday through Thursday only; hunting hours are from one-half hour before sunrise until 8:30 a.m.) (1)
 Marshall Fish and Wildlife Area (1)
 Mermet Lake State Fish and Wildlife Area (1)
 Middlefork State Fish and Wildlife Management Area (1)
 Mississippi Palisades State Park (closes after the second Sunday of the fourth season; fourth season permits will be limited to those remaining after the disabled hunt drawing) (1)
Momence Wetlands (1)
 Newton Lake Fish and Wildlife Area
 Panther Creek Conservation Area
 Pere Marquette State Park (Piasa, Quotoga, Potawatomi Camp Areas) (no hunting allowed on weekends)

DEPARTMENT OF NATURAL RESOURCES

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Pyramid State Park (1)
 Ramsey Lake State Park (1)
 Randolph County Conservation Area (1)
 Red Hills State Park
 Sam Dale Lake Conservation Area (1)
 Sam Parr State Park
 Sand Ridge State Forest
 Sangamon County Conservation Area
 Sanganois Conservation Area (Squirrel Timber Unit) (1)
Sangchris Lake State Park (1)
 Sato
 Siloam Springs State Park (1)
 Site M
 Stephen A. Forbes State Park (1)
 Tapley Woods State Natural Area (1)
 Ten Mile Creek Fish and Wildlife Area
 Witkowsky State Wildlife Area (1)
 Wolf Creek State Park (first 2 seasons only) (1)
 (Source: amended at 23 Ill. Reg. 11956, effective SEP 21 1999)

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Illinois Physical Therapy Act

2) Code Citation: 68 Ill. Adm. Code 1340

3) Section Numbers: Adopted Action:

1340.20 Amendment

1340.30 Amendment

1340.50 Amendment

1340.60 Amendment

1340.65 Amendment

4) Statutory Authority: The Illinois Physical Therapy Act [225 ILCS 90]

5) Effective Date of Amendments: September 17, 1999

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection:

9) Date Notice of Proposal Published in Illinois Register: June 18, 1999, at 23 Ill. Reg. 7053.

10) Has JCAR issued a Statement of Objections to these amendments? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these amendments replace an emergency amendment currently in effect?
No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: Section 1340.20 specifies that no course in which an applicant received lower than a C will be accepted for professional coursework, and specifies that foreign graduates must have their degrees validated by the Foreign Credentialing Commission on Physical Therapy (FCCPT). Sections 1340.30 and 1340.50 both make provisions for those individuals required to pass the Test of English as a Foreign Language (TOEFL), for scoring either the paper-based or computer-based test. In Section 1340.60, restoration applicants required to complete clinical training must get it approved by the Committee prior to starting the training. Section 1340.65 incorporates the Code of

DEPARTMENT OF PROFESSIONAL REGULATION

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Ethics of the American Physical Therapy Association into this Part.

16) Information and questions regarding this amendment shall be directed to:

Department of Professional Regulation
Attention: Jean Courtney
320 West Washington, 3rd Floor
Springfield, Illinois 62786
217/785-0813 Fax: 217/782-7645

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATIONNOTICE OF PROPOSED RULES
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1340

ILLINOIS PHYSICAL THERAPY ACT

Section	Application for Licensure Under Section 8.1 of the Act (Grandfather) (Repealed)
1340.15	Approved Curriculum
1340.20	Application for Licensure on the Basis of Examination
1340.30	Examination
1340.40	Endorsement
1340.50	Renewals
1340.55	Restoration
1340.60	Unprofessional Conduct
1340.65	Advertising
1340.66	Granting Variances
1340.70	

AUTHORITY: Implementing the Illinois Physical Therapy Act [225 ILCS 90] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Adopted at 5 Ill. Reg. 6500, effective June 3, 1981; codified at 5 Ill. Reg. 11048; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 9 Ill. Reg. 1906, effective January 28, 1985; recodified from Chapter I, 68 Ill. Adm. Code 340 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1340 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2959; amended at 12 Ill. Reg. 8030, effective April 25, 1988; amended at 15 Ill. Reg. 5254, effective March 29, 1991; emergency amendment at 15 Ill. Reg. 11503, effective July 30, 1991, for a maximum of 150 days; emergency expired December 27, 1991; amended at 16 Ill. Reg. 3175, effective February 18, 1992; amended at 17 Ill. Reg. 14606, effective August 27, 1993; amended at 20 Ill. Reg. 10678, effective July 26, 1996; amended at 23 Ill. Reg. 11970, effective SEP 17 1999.

Section 1340.20 Approved Curriculum

- a) The Department shall, upon the recommendation of the Physical Therapy Licensing and Disciplinary Committee (the Committee), approve an applicant's physical therapy curriculum if it meets the following minimum criteria:
- 1) The school from which the applicant was graduated:
 - A) Is legally recognized and authorized by the jurisdiction in

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- which it is located to confer a physical therapy degree; and
- B) Has a faculty that comprises a sufficient number of full-time instructors to make certain that the educational obligations to the student are fulfilled. The faculty must have demonstrated competence as evidenced by appropriate degrees in their area(s) of teaching from professional colleges or institutions; and
 - C) Maintains permanent student records that summarize the credentials for admission, attendance, grades and other records of performance.
- 2) The applicant's curriculum shall have a minimum of 120 semester hours which shall include a minimum of 50 semester hours credit in general education and at least the following subject areas in professional education (57-61 semester hours required):

- A) Basic Health Sciences
 - i) Anatomy
 - ii) Physiology
 - iii) Pathology
 - iv) Kinesiology
 - v) Neurology
 - vi) Psychology
- B) Clinical Sciences to include, but not limited to the major areas of:
 - i) Medicine
 - ii) Surgery
 - iii) Physical therapy theory and application including therapeutic exercise, evaluation procedures physical agents, mechanical modalities, electrotherapy, massage, orthotics and prosthetics, and professional issues

- C) Clinical Education - a minimum of 800 clock hours.
- 3) No course in which the applicant received a grade lower than a C will be accepted for professional coursework.

- b) The Department shall, upon the recommendation of the Committee, approve an applicant's physical therapist assistant curriculum if it meets the following minimum criteria:
 - 1) The school from which the applicant was graduated:
 - A) Is legally recognized and authorized by the jurisdiction in which it is located to offer a 2 year physical therapist assistant curriculum;
 - B) Has a faculty that comprises a sufficient number of full-time instructors to make certain that the educational obligations to the student are fulfilled. The faculty must have demonstrated competence as evidenced by appropriate degrees in their area(s) of teaching from professional colleges or institutions;
 - C) Maintains permanent student records that summarize the credentials for admission, attendance, grades and other

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records of performance.

- 2) The applicant's curriculum includes at least the following subject areas in professional education (29-31 semester hours required):

- A) Basic Health Sciences
 - i) Anatomy and physiology
 - ii) Pathology
 - iii) Psychology
 - iv) Kinesiology

- B) Clinical Sciences to include, but not be limited to, the major areas of:

- i) Medicine and surgery
- ii) Physical therapist assistant theory and application, including gross evaluation techniques, physical agents, mechanical modalities, therapeutic exercise, electrotherapy, massage, and professional issues.

- C) Clinical Education - a minimum of 600 clock hours.

- 3) No course in which the applicant received lower than a C will be accepted for professional coursework.

- c) In determining whether an applicant's curriculum should be approved, the Department shall take into consideration, but not be bound by, accreditation of the applicant's school by the Commission on Accreditation in Physical Therapy Education.

- d) Recommendation of Approval

- 1) The Department, upon the recommendation of the Committee, has determined that the curricula of all physical therapy and physical therapist assistant programs accredited by the Commission on Accreditation in Physical Therapy Education as of January 1, 1996, meet the minimum criteria set forth in subsections (a) and (b) above and are, therefore, approved.

- 2) In the event of a decision by the above accrediting body to suspend, withdraw or revoke accreditation of any physical therapy or physical therapist assistant program, the Committee shall proceed to evaluate the curriculum and either approve or disapprove it in accordance with subsections (a) and (b) above.

- e) A graduate of a physical therapy or physical therapist assistant program outside the United States or its territories shall have his/her degree validated, by the Foreign Credentialing Commission on Physical Therapy (FCCPT), P.O. Box 25827, Alexandria, Virginia 22313, a ~~credentialing agency~~ at the applicant's expense, as equivalent to a physical therapy degree conferred by a regionally accredited college or university in the United States.

- f) An individual who is deficient in course work may complete the required course(s) at a regionally accredited college or university. The individual will be required to submit a transcript from the program indicating successful completion of the course and a course description.

- g) On or after August 1, 1996, any person applying for licensure shall

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have his/her curriculum reviewed on an individual basis as set forth in this Section. All programs previously approved by the Department will no longer be considered approved.

(Source: Amended at 23 Ill. Reg. 1197(i), effective SEP 17 1996)

Section 1340.30 Application for Licensure on the Basis of Examination

- a) An applicant for a physical therapist license by examination shall file an application on forms supplied by the Department. The application shall include:

- 1) A complete work history indicating all employment since graduation from a physical therapy program;
- 2) Certification of successful completion of a physical therapy program, signed by the Director of the Physical Therapy Program or other authorized university official and bearing the seal of the university, which meets the requirements set forth in Section 1340.20 of this Part;
- 3) Proof of passage of the Test of English as a Foreign Language (TOEFL) with a minimum score of 550 on the paper-based test or 213 on the computer-based test and the Test of Spoken English (TSE) with a score of 50 for applicants who apply after January 1, 1996, who graduated from a physical therapy program outside the United States or its territories and whose first language is not English. In order to determine applicants whose first language is English, the applicant shall submit verification from the school that the physical therapy program from which the applicant graduated was taught in English; and

- 4) The required fee specified in Section 32(1) and (2) of the Act.
- b) An applicant for a physical therapist assistant license by examination shall file an application on forms supplied by the Department. The application shall include:

- 1) A complete work history indicating all employment since graduation from a physical therapist assistant program;
- 2) Either:
 - A) Certification of graduation from a 2 year college-level physical therapist assistant program signed by the director of the Physical Therapy Program or other authorized school official and bearing the seal of the school which meets the requirements set forth in Section 1340.20 of this Part; or
 - B) Certification that the applicant is a full-time student in his/her final term of a 2 year college-level physical therapist assistant program with a curriculum that meets the requirements set forth in Section 1340.20 of this Part

- 3) Proof of passage of the Test of English as a Foreign Language

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(TOEFL) with a score of 550 on the paper-based test or 213 on the computer-based test and the Test of Spoken English (TSE) with a score of 50 for applicants who apply after January 1, 1996, who graduated from a physical therapy program outside the United States or its territories and whose first language is not English. In order to determine applicants whose first language is English, the applicant shall submit verification from the school that the physical therapy program from which the applicant graduated was taught in English; and

- 4) The required fee specified in Section 32(1) and (2) of the Act.
- c) If supporting documentation for the application is not in English, a certified translation must be included.
- d) A graduate of a physical therapy or physical therapist assistant program outside the United States or its territories shall have his/her degree validated, by the Foreign Credentialing Commission on Physical Therapy (FCCPT), P.O. Box 25827, Alexandria, Virginia 22313, a credentialing agency at the applicant's expense, as equivalent to a physical therapy degree conferred by a regionally accredited college or university in the United States.
- e) An applicant shall have 60 days after approval of the application to take the examination. If the examination is not taken within those 60 days, the examination fee is forfeited and the applicant shall resubmit the required examination fee to Continental Testing Services, Inc. An applicant who fails to take the examination within 60 days shall forfeit his/her right to work as a physical therapist assistant until the examination is passed.
- f) If the applicant has ever been licensed/registered in another state or territory of the United States, he/she shall also submit a certification, on forms provided by the Department, from the state or territory of the United States in which the applicant was originally licensed and the state in which the applicant predominantly practices and is currently licensed, stating:
 - 1) The time during which the applicant was registered in that jurisdiction, including the date of the original issuance of the license;
 - 2) A description of the examination in that jurisdiction;
 - 3) Whether the file on the applicant contains any record of disciplinary actions taken or pending.
- g) An applicant for a license, who has successfully completed the examination recognized by the Department in another jurisdiction but who has not been licensed in that jurisdiction, shall file an application in accordance with subsection (a) or (b) above and have the examination scores submitted to the Department by the reporting entity.
- h) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department or the Committee because of lack of information, discrepancies or conflicts in information given or a need for

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clarification, the applicant seeking licensure shall be requested to: if the Department has questions or doubts with respect to the documentation or accuracy of any of the matters set forth in the application, the applicant will be required to appear before the Committee and/or provide such additional information as necessary.

- 1) Provide such information as may be necessary; and/or
- 2) Appear for an interview before the Committee to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.
- i) If the applicant has been determined eligible for licensure except for passing of the examination, the applicant shall be issued a letter of authorization which allows him/her to practice under supervision in accordance with Section 2 of the Act. Supervision shall constitute the presence of the licensed physical therapist on site to provide supervision. The applicant shall not begin practice as a physical therapist or physical therapist assistant, license pending, until the letter of authorization is received from the Department.

(Source: Amended at 23 Ill. Reg. 11970, effective SEP 17 1999)

Section 1340.50 Endorsement

- a) An applicant who is currently licensed under the laws of another state or territory of the United States and who wishes to be licensed as a physical therapist or physical therapist assistant by endorsement, shall file an application with the Department, on forms provided by the Department, which shall include:
 - 1) Certification, on forms provided by the Department, of successful completion of an approved physical therapy or physical therapist assistant program in accordance with Section 1340.20;
 - 2) Certification from the state or territory of original licensure and the state in which the applicant is currently licensed and practicing, if other than original, stating the time during which the applicant was licensed in that state, whether the file on the applicant contains record of any disciplinary actions taken or pending, and the applicant's license number;
 - 3) Proof of passage of the Test of English as a Foreign Language (TOEFL) with a score of 550 on the paper-based test or 213 on the computer-based test and the Test of Spoken English (TSE) with a score 50 for applicants who apply after January 1, 1996, who graduated from a physical therapy program outside the United States or its territories and whose first language is not English. In order to determine applicants whose first language is English, the applicant shall submit verification from the school that the physical therapy program from which the applicant graduated was taught in English. The Department may waive the TOEFL and TSE examination for individuals who are licensed and

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have been actively practicing in another jurisdiction for 3 years prior to the date of application for licensure in Illinois;

- 4) A report of the applicant's examination record forwarded directly from the test reporting service;
 - 5) Complete work history since graduation from the physical therapy or physical therapist assistant program; and
 - 6) The required fee specified in Section 32 of the Act.
- b) A graduate of a physical therapy or physical therapy assistant program outside the United States or its territories shall have his/her degree validated, by the Foreign Credentialing Commission on Physical Therapy (FCCPT), P.O. Box 25827, Alexandria, Virginia 22313, ~~a credentialing agency~~ at the applicant's expense, as equivalent to a physical therapy degree conferred by a regionally accredited college or university in the United States.
- c) The Department shall examine each endorsement application to determine whether the requirements in the jurisdiction at the date of licensing were substantially equivalent to the requirements then in force in this State and whether the applicant has otherwise complied with the Act.
- d) The Department shall either issue a license by endorsement to the applicant or notify the applicant in writing of the reasons for the denial of the application.
- e) When an applicant for licensure by endorsement as a physical therapist or physical therapist assistant is notified in writing by the Department that the application is complete, the applicant may practice in Illinois for one year or until licensure has been granted or denied, whichever period of time is lesser, as provided in Section 2(4) of the Act.

(Source: Amended at 23 Ill. Reg. 11970, effective SEP 17 1999)

Section 1340.60 Restoration

- a) A person applying for restoration of a license which has expired or been placed on inactive status for more than 5 years shall file an application with the Department along with the required fee and shall do one of the following:

- 1) Submit certification of current licensure from another state or territory completed by the appropriate state board, and show proof of current active practice; or
- 2) Submit an affidavit attesting to military service as provided in Section 15 of the Act. If application is made within 2 years of discharge, and if all other provisions of Section 15 of the Act are satisfied, the applicant will not be required to pay a restoration fee or any lapsed renewal fees; or
- 3) Pass the examination set forth in Section 1340.40; or
- 4) Submit evidence of recent attendance at educational programs in

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physical therapy, including attendance at college level courses, professionally oriented continuing education classes, special seminars, or any other similar program, or evidence of recent related work experience to show that the applicant has maintained competence in his/her field. The Department will accept:

- A) For an applicant whose license has lapsed 5 to 10 years, 160 contact hours of clinical training under the supervision of a licensed physical therapist or 20 hours of continuing education relating to the clinical aspects of physical therapy or any combination thereof approved by the Committee. Clinical training shall be approved by the Committee prior to an applicant starting the training.
- B) For an applicant whose license has lapsed for 10 years or more, 320 contact hours of clinical training under the supervision of a licensed physical therapist or 40 hours of continuing education relating to the clinical aspects of physical therapy, or any combination thereof approved by the Committee. Clinical training shall be approved by the Committee prior to an applicant starting the training.
- b) A person applying for restoration of a license that has expired for 5 years or less shall file an application with the Department and submit \$10 plus all lapsed renewal fees as specified in Section 32 of the Act.
- c) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department or the Committee because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking restoration shall be requested to:
 - 1) Provide such information as may be necessary; and/or
 - 2) Appear for an interview before the Committee to explain such relevance or sufficiency, clarify information, or clear up any discrepancies or conflicts of information. Upon the recommendation of the Committee and approval by the Director, an applicant shall have the license restored or will be notified in writing of the reason for the denial of the application.

(Source: Amended at 23 Ill. Reg. 11970, effective SEP 17 1999)

Section 1340.65 Unprofessional Conduct

- a) Pursuant to Section 17(1)(H) of the Act, unprofessional conduct in the practice of physical therapy shall include but not be limited to:
- 1) The promotion of the sale of services, goods, appliances or drugs in such manner as to exploit the patient or client for the financial gain of the practitioner or of a third party.
 - 2) Directly or indirectly offering, giving, soliciting, or

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receiving, or agreeing to receive any fee or other consideration to or from a third party for the referral of a patient or client.

3) ~~c~~ Revealing of personally identifiable facts, data or information about a patient or client obtained in a professional capacity without the prior consent of the patient or client, except as authorized or required by law.

4) ~~d~~ Practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform.

5) ~~e~~ Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that the person to whom the responsibilities were delegated is not qualified by training, experience, or licensure to perform them.

6) ~~f~~ Failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of a licensed physical therapist.

7) ~~g~~ Overutilizing services by providing excessive evaluation or treatment procedures not warranted by the condition of the patient or by continuing treatment beyond the point of possible benefit.

8) ~~h~~ Making gross or deliberate misrepresentations or misleading claims as to professional qualifications or of the efficacy or value of the treatments or remedies given or recommended, or those of another practitioner.

9) ~~i~~ Gross and willful and continued overcharging for professional services including filing false statement for collection of fees for which services are not rendered.

10) ~~j~~ Failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient.

11) ~~k~~ Advertising or soliciting for patronage in a manner that is fraudulent or misleading. Examples of advertising or soliciting which is considered fraudulent or misleading shall include, but not be limited to:

A) ~~1~~ Advertising by means of testimonials, anecdotal reports of physical therapy practice successes or claims of superior quality of care to entice the public; or

B) ~~2~~ Advertising which contains false, fraudulent, deceptive or misleading materials, warranties or guarantees of success, statements which play upon vanities or fears of the public or statements which promote or produce unfair competition.

b) The Department hereby incorporates by reference the "Code of Ethics", June 1991, approved by the American Physical Therapy Association, 1111 North Fairfax Street, Alexandria VA 22314, with no later amendments or editions.

(Source: Amended at 23 Ill. Reg. 11970, effective

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SEP 17 1999

BOARD OF HIGHER EDUCATION

NOTICE OF EMERGENCY RULES

- 1) Heading of the Part: General Grant Programs

- 2) Code Citation: 23 Ill. Adm. Code 1001

- 3) Section Numbers:
 1001.10 New Section
 1001.20 New Section
 1001.30 New Section
 1001.40 New Section
 1001.50 New Section

- 4) Statutory Authority: Implementing and authorized by Sections 9.05, 9.09 and 9.17 of the Board of Higher Education Act [110 ILCS 205/9.05, 9.09 and 9.17].

- 5) Effective Date of Rule: September 15, 1999

- 6) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire: When proposed rule becomes effective.

- 7) Date Filed with the Index Department: September 15, 1999

- 8) The adopted emergency rule is on file and available for public inspection at the Board of Higher Education office, 431 East Adams Street, Second Floor, Springfield IL 62701. A copy will be provided upon request.

- 9) Reason for Emergency: For fiscal year 2000, a number of appropriations were made to the Board of Higher Education for designated and non-designated grants. In order to provide for expedient payment of funds and to provide consistent procedures for the administration and allocation of appropriations, emergency rules are being adopted at the same time that proposed rules are submitted for publication in the *Illinois Register*.

- 10) A Complete Description of the Subjects and Issues Involved: See response to #9 above.

- 11) Are there any proposed amendments to this Part pending: No

- 12) Statement of Statewide Policy Objectives: This rule does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

- 13) Information and questions regarding this rule shall be directed to:

BOARD OF HIGHER EDUCATION

NOTICE OF EMERGENCY RULES

Carolyn Lorton, Associate Director
 Board of Higher Education
 431 East Adams Street, Second Floor
 Springfield, Illinois 62701
 217/557-7343 or e-mail lorton@bhe.state.il.us

The full text of the Emergency Rule begins on the next page.

BOARD OF HIGHER EDUCATION

NOTICE OF EMERGENCY RULES

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER II: BOARD OF HIGHER EDUCATION

PART 1001

GENERAL GRANT PROGRAMS

Section

1001.10 Purpose

EMERGENCY

1001.20 Definitions

EMERGENCY

1001.30 Grant Amounts and Allocations

EMERGENCY

1001.40 Grant Requirements

EMERGENCY

1001.50 Audit Requirements and Guidelines

EMERGENCY

AUTHORITY: Implementing and authorized by Sections 9.05, 9.09 and 9.17 of the Board of Higher Education Act [110 ILCS 205/9.05, 9.09 and 9.17].

SOURCE: Emergency Rules adopted at 23 Ill. Reg. 11982, effective September 15, 1999, for a maximum of 150 days.

Section 1001.10 Purpose

EMERGENCY

This Part provides for administration of, and is applicable only to, general grants from the Board of Higher Education when the Board receives an appropriation or other funds for which there is no specific authorizing statute and only a general purpose is included in the appropriation.

Section 1001.20 Definitions

EMERGENCY

"Board" means the Illinois Board of Higher Education.

"Designated Grant" means a grant funded by an appropriation or other source which appropriation or other source specifies the recipient of the grant and the purpose of the grant.

"Grant Period" means the period ending two years after the date that either the Board or the recipient signs a grant agreement, whichever is later.

"Non-Designated Grant" means a grant funded by an appropriation or

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other source which appropriation or other source specifies the recipient of the grant but does not specify the purpose of the grant.

"Recipient" means the institution of higher education or other entity, public or private, which institution of higher education or other entity, public or private, is designated by an appropriation or other source to receive a grant, or means a class of institutions that is designated by an appropriation or other source to receive a grant.

Section 1001.30 Grant Amounts and Allocations

EMERGENCY

Grant amounts and allocations shall be made as follows:

a) Where the appropriation or other funding source specifies a specific amount for a recipient or recipients, the grant amount shall be that sum specified by the appropriation or other funding source.

b) Where the appropriation appears to leave discretion in the allocation of grant funds to the Board, the Board shall determine the intent of the Governor and the General Assembly in passing the legislation and allocate grants accordingly. If that intent cannot be determined, the Board shall establish general guidelines for eligibility for the grants in accordance with their stated purpose as specified by the appropriation or other funding source and shall promulgate guidelines and distribute them to all potentially eligible recipients prior to making grants. Grants shall be allocated in a fair and equitable manner.

c) In those cases where the appropriation or other funding source specifies a specific amount for a class of recipients, the grant amounts shall be determined by the method specified by the appropriation or other funding source, or if no method is specified, then the grant funds shall be allocated equally among all eligible recipients in the class, provided that such recipients sign a grant agreement, if required.

Section 1001.40 Grant Requirements

EMERGENCY

a) A recipient of a non-designated grant shall not be required to execute a grant agreement in order to receive grant funds.

b) A recipient of a designated grant must execute a grant agreement with the Board that:

- 1) Must be executed by the authorized chief executive officer of the recipient within 60 days after receipt of the proposed grant agreement from the Board;
- 2) Must contain a representation by the recipient that it will expend all grant funds in accordance with the requirements of the appropriation, the funding source and the grant agreement;
- 3) Must contain a provision that the recipient will refund any grant

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funds that the recipient was not eligible to receive or that were not spent in accordance with this Part;

- 4) Must contain a provision that the recipient will expend and disburse all grant funds, except for the audit fee, within the grant period;
- 5) Must contain a provision that the recipient will contract with an external auditor who is licensed as a public accountant by the Illinois Department of Professional Regulation to conduct an audit of grant expenditures.
- c) Designated grant funds may not be used to reimburse a recipient for obligations or expenditures prior to the date of the grant agreement, except that otherwise eligible expenditures that occur after the effective date of any appropriation may be reimbursed from grant funds.
- d) Designated grant funds may be distributed by the Board to a recipient prior to the expenditure or obligation by the recipient.
- e) For grants of less than \$250,000, interest earned by the recipient may be retained by the recipient since the cost of accounting for the interest or allocating the interest to principal is deemed significant in terms of the amount of interest to be received. For grants of \$250,000 and more, interest earned by the recipient must be accounted for and interest earned shall become a part of the grant principal and used only for those purposes authorized by the grant agreement. For grants over \$250,000, the Board may pay out such grants in installments, with each installment taking into account the purpose of the grant and the rate of anticipated expenditure of the grant funds by the recipient.
- f) For designated grants, grant agreements shall comply with the Grant Funds Recovery Act [30 ILCS 705].

Section 1001.50 Audit Requirements and Guidelines
EMERGENCY

Within 120 days after the end of the grant period, the recipient shall submit a schedule of budgeted and actual grant expenditures audited by an external auditor who is licensed as a public accountant by the Illinois Department of Professional Regulation. The audit shall include an opinion by the auditor on the schedule of budgeted and actual grant expenditures and assurance that grant funds were expended in conformance with the purpose of the grant as included in the appropriation, or other funding source, and the grant agreement. Any funds not so expended shall be refunded to the Board. Any recipient that fails to submit an audit shall refund the entire grant amount to the Board. Recipients of \$25,000 or less in grant funds may submit a statement signed by the chief executive officer of the recipient in lieu of an audit. Such verified statement shall include a schedule of budgeted and actual expenditures and shall represent that grant funds have been used for the purpose contained in the appropriation, or other funding source, and the grant agreement. The verified statement shall further state that the recipient has complied with

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all requirements with respect to the grant.

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- 1) Heading of the Part: Administration of Medication in Community Settings

- 2) Code Citation: 59 Ill. Adm. Code 116

- 3) Section Numbers: Emergency Action:

116.10	New
116.20	New
116.30	New
116.40	New
116.50	New
116.60	New
116.70	New
116.80	New
116.90	New
116.100	New
116.110	New

- 4) Statutory Authority: Implementing and authorized by Section 15.4 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/15.4].

- 5) Effective Date of Amendments: September 13, 1999

- 6) If these emergency rule(s) are to expire before the end of the 150-day period, please specify the date on which they are to expire: Not applicable

- 7) Date filed with the Index Department: September 13, 1999

- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

- 9) Reason for Emergency: SB 965/PA 91-630, authorization for nursing delegation to permit direct care staff to administer medications, became effective August 24, 1999. This legislation specifically authorizes the promulgation of this rulemaking by emergency in that, "the absence of this training program constitutes a threat to the public interest, safety, and welfare and necessitates emergency rulemaking by the Department of Human Services under Section 5-45 of the Illinois Administrative Procedures Act".

- 10) complete Description of the Subject and Issues: This rulemaking will govern the delegation of medication administration to unlicensed direct care staff by registered professional nurses in small community settings (16-beds and under) for persons with developmental disabilities.

- 11) Are there any other amendments pending on this Part: No

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- 12) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

- 13) Information and questions regarding these amendments shall be directed to:

Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois 62762
Telephone number: (217) 785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

The full text of the emergency rule begins on the next page.

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TITLE 59: MENTAL HEALTH

CHAPTER I: DEPARTMENT OF HUMAN SERVICES

PART 116

ADMINISTRATION OF MEDICATION
IN COMMUNITY SETTINGS

Section

116.10 Purpose

EMERGENCY

116.20 Definitions

EMERGENCY

116.30 Master Nurse-Trainer and Nurse-Trainers

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116.40 Training and Authorization of Non-Licensed Staff by

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116.60 Medication Self-Administration

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116.70 Medication Administration Record and Required Documentation

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116.80 Storage and Disposal of Medications

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116.110 Administrative Requirements

EMERGENCY

AUTHORITY: Implementing and authorized by Section 15.4 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/15.4].

SOURCE: Emergency rule adopted at 23 Ill. Reg. 11988, effective September 13, 1999, for a maximum of 150 days.

Section 116.10 Purpose

EMERGENCY

The purpose of this Part is to ensure the safety of individuals in programs funded by the Department of Human Services (DHS) by regulating the storage, distribution, and administration of medications in specific settings; training of non-licensed staff in the administration of medications. This applies exclusively to all programs for individuals with a developmental disability in settings of 16 persons or fewer that are funded or licensed by the Department of Human Services and that distribute or administer medications and all

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intermediate care facilities for the developmentally disabled with 16 beds or fewer that are licensed by the Illinois Department of Public Health.

Section 116.20 Definitions

EMERGENCY

The words and phrases used in this Part shall mean the following, except where a different meaning is clearly intended from the context:

"Administer" or "Administration." An act whereby a single dose of medication is instilled into the body of, applied to the body of, or otherwise given to a person for immediate consumption or use, exclusive of injection or other similar methods of transmission.

"Adverse drug reaction." A person's response to medication which has an undesirable effect and may be harmful to the health of a person. The reaction may be temporary and resolve itself without lasting effects or it may require interventions to be resolved.

"Agency." Any organization which operates a residential program for persons with developmental disabilities.

"Authorized direct care staff." Non-licensed persons who have successfully completed a medication administration training program specified by the Illinois Department of Human Services (DHS) and conducted by a nurse-trainer. This authorization is specific to an individual receiving services in a specific agency and does not transfer to another agency. [20 ILCS 1705/15.4(b)]

"Community residence." Any residence funded by DHS and provided by a licensed agency, or a residential setting certified or approved by DHS, or an intermediate care facility for 16 or fewer persons with developmental disabilities, licensed by the Illinois Department of Public Health (DPH) as an Intermediate Care Facility for the Developmentally Disabled (ICF/DD), 16-bed or less.

"Competency-based." Training which is tied to an identified set of skills and requires documentation of an acceptable level of performance of a task or achievement of an outcome.

"Controlled substance." Any drug or other substance listed pursuant to a schedule in the Illinois Controlled Substances Act [720 ILCS 570].

"Days." Unless otherwise indicated, all references to days within the text of this Part refers to working days.

"DD Clinical Director." The physician serving as the clinical

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director of the Office of Developmental Disabilities, Division of Disability and Behavioral Health Services, Illinois Department of Human Services, or designee.

"Delegation." The transfer of responsibility for the performance of selected tasks by the registered nurse (RN) to qualified, competent assistive personnel in a selected situation, based upon the RN's plan of care. The RN retains professional accountability for the outcome of the delegated task and all the nursing care of the individual. No redelegation by assistive personnel may occur.

"Department." The Illinois Department of Human Services (DHS).

"Distribute or distribution." The act of controlling access to medication(s) and allowing access by individuals to their medication(s) at prescribed times.

"DPA." The Illinois Department of Public Aid.

"DPH." The Illinois Department of Public Health.

"Functional literacy." An individual's ability to read, write, and speak in English and compute and solve problems at levels of proficiency necessary to function on the job.

"Guardian." The parent of a child under the age of 18 whose parental rights have not been terminated or a person appointed by a court to be guardian of the individual.

"Individual." Any person with a developmental disability receiving services from a program.

"Intermediate care facility for the developmentally disabled (ICF/DD-16)." A residence licensed by the Illinois Department of Public Health to provide health or habilitative care on a long-term basis for 16 or fewer individuals with developmental disabilities.

"Licensed person or personnel." A physician, a registered professional nurse, an advanced practice nurse, a licensed practical nurse, a dentist, a pharmacist, a physician assistant, or a podiatrist licensed in the State of Illinois.

"Master nurse-trainer." An employee of DHS who is a registered professional nurse who has been designated by the DD Clinical Director to train nurse-trainers.

"Medication." A drug prescribed for the individual by a physician, a physician assistant, an advanced practice nurse, a dentist, a

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podiatrist, or a certified optometrist, including drugs to be taken on a PRN basis and over-the-counter drugs.

"Medication error." The administration of medication other than as prescribed resulting in the wrong medication being taken, or medication being taken at the wrong time, or in the wrong dosage, or via the wrong route, or by the wrong person, or omitted entirely. It is meant to include a lack of documentation of medication administration or any error in that documentation. A medication error must be reported to the DHS Quality Assurance Unit or to the Illinois Department of Public Health Regional Office if the individual is a resident of an ICF/DD-16. The report must be made by phone within 24 hours with a written follow-up by the nurse-trainer within seven days. All medication errors are subject to review by DHS or DPH, whichever is applicable. Medication errors which meet the reporting criteria pursuant to the Department's rules on Office of Inspector General Investigations of Alleged Abuse or Neglect or Deaths in State-Operated and Community Agency Facilities (59 Ill. Adm. Code 50) shall be reported to the Office of Inspector General.

"Medication administration record." A written record of medications prescribed for, and administered to, an individual.

"Non-licensed staff training program." A standardized competency-based medication administration training program approved by the Illinois Department of Human Services. It is conducted by a nurse-trainer for the purpose of training persons employed or under contract to provide direct care or treatment to individuals receiving services to administer medications and provide self-administration of medication training to individuals under the supervision and monitoring of the nurse-trainer. It incorporates adult learning styles, teaching strategies, classroom management, curriculum overview including ethical-legal aspects, and standardized competency-based evaluations on administration of medications and self-administration of medication training programs. [20 ILCS 1705/15.4(b)]

"Normalization." A philosophy under which persons with a developmental disability are provided or restored to patterns and conditions of everyday life which are as close as possible to norms and patterns of the mainstream of society.

"Nurse-trainer." A registered professional nurse and/or advanced practice nurse who has successfully completed the DHS nurse-trainer training program.

"Nurse-Trainer Training Program." A standardized competency-based medication administration program provided by the Illinois Department of Human Services and conducted by a DHS master nurse-trainer.

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Nurse-trainers shall train persons employed or under contract to provide self-administration of medication training to individuals under the supervision and monitoring of the nurse-trainer. It incorporates adult learning styles, teaching strategies, classroom management and a curriculum overview including the ethical and legal aspects of supervising those administering medication. [20 ILCS 1705/15.4(b)]

"Patent or proprietary medications." Medications and household remedies which are generally considered and accepted as harmless and nonpoisonous when used according to the directions on the label and for which there are written physician orders for their use.

"Physician." A physician licensed to practice medicine in all of its branches.

"PRN." Prescribed medications, to be taken as needed, for specific conditions.

"Registered professional nurse." A person licensed as a professional nurse as defined in the Illinois Nursing and Advanced Practice Nursing Act [225 ILCS 65].

"Self-administration." An act whereby an individual administers his or her own medications. To be considered "capable of self-administering medications", individual residents must, at a minimum, be able to identify prescribed medication by size, shape, or color and know when it should be taken and in what amount it should be taken each time. [20 ILCS 1705/15.4(b)]

"Substantial compliance." Meeting the requirements set forth in this Part, except for variations from the strict and literal performance of such requirements which result in insignificant omissions and defects, given the particular circumstances and the history of such omissions and defects. Omissions and defects that have an adverse impact on an individual's health and safety shall not be considered insignificant and shall be considered substantial noncompliance.

"Supervision." An active process in which the Registered Nurse monitors, directs, guides, and influences the outcomes of an activity or task. The registered nurse maintains the accountability for the tasks and responsibilities, as subcomponents of total patient care, delegated to qualified competent assistive personnel.

Section 116.30 Master Nurse-Trainer and Nurse-Trainers EMERGENCY

- a) The Department's master nurse-trainer(s) are designated by the DD

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Clinical Director and shall meet the following criteria:

- 1) Demonstration of competence to teach adult learners through:
 - A) evidence of previous teaching or training experience; or
 - B) completion of courses in teaching and instructing.
- 2) Possession of two years of clinical registered professional nursing experience within the last five years, at least one of which shall have been in developmental disabilities.
- b) All persons seeking approval to be nurse-trainers to provide medication administration training to non-licensed staff shall:
 - 1) Be licensed as a registered professional nurse or advanced practice nurse in Illinois.
 - 2) Possess two years of clinical registered professional nursing experience within the last five years, at least one of which shall preferably have been in developmental disabilities.
 - 3) Have successfully completed the DHS Nurse-Trainer Training Program.
- c) Requests for approval as a Nurse-Trainer shall be submitted, in writing, to the DD Clinical Director. The DD Clinical Director shall approve all requests which show substantial compliance with the requirements. The decision to approve or deny requests shall be on file with the Department, which shall maintain a list of all approved Nurse-Trainers.
- d) The DD Clinical Director shall, upon request, grant conditional approval to a registered professional nurse who fulfills the requirements but has not completed the required nurse-trainer course of instruction. Conditional approval shall be granted for no more than 90 days following the date of conditional approval. The nurse given conditional approval shall not train or authorize non-licensed staff to administer medications, but may direct and monitor, as well as educate and train, previously authorized direct care staff on new medications or dosage changes as shall be required.

Section 116.40 Training and Authorization of Non-Licensed Staff by Nurse-Trainers EMERGENCY

- a) Prior to training non-licensed staff to administer medication, each nurse-trainer shall perform the following for each individual to whom medications will be administered by non-licensed staff once they are trained and authorized direct care staff:
 - 1) An assessment of the individual's physical and mental status and medical history.
 - 2) An evaluation of the medication order(s) and medication(s) prescribed.
- b) Non-licensed direct care staff who are to be authorized to administer medications under the delegation of the registered professional nurse shall meet the following criteria:
 - 1) be age 18 or older;

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- 2) complete high school or its equivalency (G.E.D.);
- 3) demonstrate functional literacy;
- 4) satisfactorily complete the Health and Safety component of the Direct Support Core Training Program;
- 5) be initially trained and evaluated by a nurse-trainer in a competency-based, standardized medication curriculum specified by DHS;
- 6) receive specific additional competency-based training and assessment by a nurse-trainer as deemed necessary by the nurse-trainer whenever a change of medication or dosage occurs or a new individual that requires medication enters the program;
- 7) pass the written portion of the comprehensive examination furnished by DHS based on the information conveyed to them; and
- 8) score 100% on a written or oral competency-based evaluation specifically pertinent to those medications that such staff are responsible to administer.

- c) Initial competency-based training toward delegation for medication administration shall include:

- 1) Best practice standards related to the rights of individuals, legal and ethical responsibilities, agency procedures and communication pertaining to medication administration.
 - 2) Best practice techniques associated with medication administration.
 - 3) Classes of drugs and their effects and common side-effects.
 - 4) Specific information regarding the individuals to whom such staff will administer medication and the medication such staff will administer.
 - 5) Techniques to check, evaluate, report and record vital signs when such skills are necessary for the safe administration of medication to that individual.
 - 6) A final, individual-specific, competency-based evaluation performed by a nurse-trainer for each medication administered a program at which such staff are employed.
- d) Authorized direct care staff shall be re-evaluated by a nurse-trainer at least annually or more frequently at the discretion of the registered professional nurse. Any retraining shall be to the extent that is necessary to ensure competency of such authorized direct care staff to administer medication, as judged by a nurse-trainer.
- e) Direct care staff who fail to qualify for competency to administer medications shall be given additional education and testing to meet criteria for delegation authority to administer medications. Any direct care staff person who fails to qualify as an authorized direct care staff after initial training and testing must, within three months, be given another opportunity for retraining and retesting. A direct care staff person who fails to meet criteria for delegated authority to administer medication, including, but not limited to, failure of the written test on two occasions, shall be given consideration for shift transfer or reassignment, if possible. No

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employee shall be terminated for failure to qualify during the three month time period following initial testing. Refusal to complete training and testing required by this Section may be grounds for immediate dismissal.

- f) No authorized direct care staff person delegated to administer medication shall be subject to suspension or discharge for errors resulting from the staff person's acts or omissions when performing the functions unless the staff person's actions or omissions constitute willful and wanton conduct.
- g) Authorization of staff to administer medication shall be revoked if, in the opinion of the registered professional nurse-trainer, the authorized direct care staff person is no longer competent to administer medication. Retraining and reassessment of competency should occur at the discretion of the nurse-trainer.
- h) Clear documentation of training, retraining, and evaluation shall be kept in each staff or contractual person's personnel file by each agency where authorized direct care staff are employed.

Section 116.50 Administration of Medications

EMERGENCY

- a) Medications shall be administered in accordance with the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705] and the Illinois Nursing and Advanced Practice Nursing Act [225 ILCS 65].
- b) Non-licensed staff shall not administer any medication in an injectable form.

- c) A registered professional nurse, advanced practice nurse, physician licensed to practice medicine in all of its branches, or physician assistant shall be on duty or on call at all times in any program covered by this Part.

- d) Authorized direct care staff shall not administer PRN medications unless there is a written protocol approved by a nurse-trainer and prescribing practitioner for each individual and for each medication. A written protocol shall include the following information:

- 1) the name of the individual;
- 2) the name, route, and dosage form of the medication;
- 3) dosage or quantity to be taken;
- 4) frequency or time(s) of administration;
- 5) conditions for which the medication may be given;
- 6) contraindications for the medications;
- 7) a maximum or stop dosage;
- 8) any necessary special directions and precautions for the medication's preparation and administration;
- 9) common severe side or adverse effects or interactions and the action required if they occur; and
- 10) proper storage.

Section 116.60 Medication Self-Administration

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EMERGENCY

a) As part of the normalization process, in order for each individual to attain the highest possible level of independent functioning, all individuals shall be permitted to participate in their total health care program. Every program shall include, but not be limited to, individual training in promoting wellness, prevention of disease and medication self-administration procedures.

1) Every program shall adopt written policies and procedures for assisting individuals in obtaining preventative health and medication self-administration skills in consultation with the registered professional nurse.

2) Individuals shall be evaluated to determine their self-administration of medication capabilities by a nurse-trainer through the use of DHS required, standardized screening and assessment instruments.

3) When the results of the screening and assessment indicate an individual not to be independently capable to self-administer his or her own medications, programs shall be developed in consultation with the Community Support Team (CST) or Interdisciplinary Team (IDT) to provide individuals with medication self-administration training as identified in each individual's treatment/service plan.

b) Each individual shall be presumed to be competent to self-administer medications if he or she has been determined to be:

1) capable by a registered professional nurse or advanced practice nurse;

2) approved to self-administer medication by the individual's Community Support Team (CST) or Interdisciplinary Team (IDT); and

3) authorized by a written order of a physician licensed to practice medicine in all of its branches.

c) Training of individuals to self-administer medication shall minimally include instruction, for each medication prescribed, in the following areas:

1) name of medication or identification within the existing agency pharmacy protocol;

2) dosage or quantity to be taken;

3) route of administration;

4) frequency or time(s) of administration;

5) purpose of medication, special instructions, common side-effects and potential consequences of not taking the medication or of not taking the medication properly; and

6) when to seek medical assistance and any action to be taken in the event of a missed dose, medication error, or adverse drug reaction.

d) When requested to do so by an individual, authorized direct care staff may assist an individual in the self-administration of medications by taking the medication from the locked area where it is stored and

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handing it to the individual. If the individual is physically unable to open the container, a staff member may open the container for the individual. Agency staff may also assist physically impaired individuals, such as those who have arthritis, cerebral palsy, or Parkinson's disease, in the removal of the medication from the container and in consuming or applying the medication.

e) Each individual shall remain under observation by authorized direct care staff and be assisted by such staff to correct or prevent medication error(s) and to safeguard against adverse drug reactions. All such observation and assistance shall be noted in the progress section of the individual's clinical record.

f) Individuals specifically determined to be competent, by a physician who has issued a written order, to self-administer their own medications may maintain possession of the key or combination of the lock to their own medication storage area. A duplicate key or a copy of the combination shall be kept by the program in a secure location for emergency use, such as if the individual should lose or misplace the key or forget the combination.

g) A medication administration record need not be kept for those individuals for whom the attending physician has given permission to have access to their own medications and to be fully responsible for taking their own medications.

**Section 116.70 Medication Administration Record and Required Documentation
EMERGENCY**

a) All medications, including patent or proprietary medications (e.g., cathartics, headache remedies, or vitamins, but not limited to those) shall be given only upon the written order of a physician, advanced practice nurse, or physician assistant. Rubber stamp signatures are not acceptable. All such orders shall be given as prescribed by the physician and at the designated time. Telephone orders may be taken by a registered professional nurse or licensed practical nurse. All such orders shall be immediately written on the individual's clinical record or a "telephone order form" and signed by the nurse taking the order. These orders shall be countersigned or documented by facsimile prescription by the physician within ten working days.

b) Medication Administration Record

1) An individual medication administration record shall be kept for each individual for medications administered and shall contain at least the following:

A) the individual's name;

B) the name and dosage form of the drug;

C) the name of the prescribing physician, physician assistant, dentist, podiatrist, or certified optometrist;

D) dosage;

E) frequency or time(s) of administration;

F) route of administration;

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- G) date and time given;
- H) most recent date of the order;
- I) allergies to medication; and
- J) special considerations.
- 2) The medication administration record for the current month shall be kept with the medications or in the individual's clinical record. If logs are kept in the individual's clinical record, the record shall be present when and where the medications are taken so that the appropriate notation can be made in the log.
- 3) The medication administration record shall be completed and initialed immediately after the medication is administered by the authorized direct care staff. Each medication administration record shall have a section which contains the full signature and title of each individual who initials the medication administration record.
- 4) All changes in medication shall be noted on the medication administration record by a licensed practical nurse, registered professional nurse, advanced practice nurse, pharmacist, physician, physician assistant, dentist, podiatrist, or certified optometrist and reported to the registered professional nurse in charge of the program prior to the next dose.
- 5) Individual refusal to take medication(s) shall be noted in the medication administration record. A progress note by authorized direct care staff shall be written in the individual's clinical record indicating the reason(s) for refusal and the registered professional nurse shall be notified.
- 6) For individuals who are independently self-administering medications, no medication administration record shall be required. However, any medication which individuals take shall be listed in their clinical records, including dosage, frequency and identity of the prescribing physician, physician assistant, dentist, podiatrist, or certified optometrist. Each agency shall develop and implement a quality assurance system to ensure that self-administered medications are taken in accordance with prescribed orders.
- c) In the event of a medication error, authorized direct care staff shall immediately report the error to the registered professional nurse, advanced practice nurse, physician, physician assistant, dentist, podiatrist, or certified optometrist to receive direction on any action to be taken. All medication errors shall be documented in the individual's clinical record and a medication error report shall be completed within eight hours or before the end of the shift in which the error was discovered, whichever is earlier. The medication error report shall be sent to the nurse-trainer for review and further action. A copy of the medication error report shall be maintained as part of the agency's quality assurance program. A medication error must be reported to the DHS Quality Assurance Unit (or the Illinois Department of Public Health Regional Office if an individual of an

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- ICF/DD-16 is involved.) The report must be made by phone within 24 hours with a written follow-up by the nurse-trainer within seven days. All medication errors are subject to review by DHS or DPH, whichever is applicable. Medication errors which meet the reporting criteria pursuant to the Department's rules on Office of Inspector General Investigations of Alleged Abuse or Neglect or Deaths in State-Operated and Community Agency Facilities (59 Ill. Adm. Code 50) shall be reported to the Office of Inspector General.
- d) In the event of suspected drug reaction, authorized direct care staff shall immediately report the signs and symptoms to the registered professional nurse, advanced practice nurse, physician, physician assistant, dentist, podiatrist, or certified optometrist to receive direction on any action to be taken. All adverse drug reactions shall be documented in the individual's clinical record and an adverse drug reaction report shall be completed within eight hours or before the end of the shift in which the reaction was discovered, whichever is earlier. The adverse drug reaction report shall be sent to the prescriber and the nurse-trainer for review and further action. A copy of the adverse drug reaction report shall be maintained as a part of the agency's quality assurance program.
- e) An inventory and a record of use of controlled substances shall be maintained by the registered professional nurse in the program, and each substance shall require a separate sheet indicating the:
- 1) name of the individual;
 - 2) name of the prescriber;
 - 3) serial number of the prescription;
 - 4) name of the drug and strength;
 - 5) amount used;
 - 6) amount remaining;
 - 7) time and date administered;
 - 8) name of the individual who administered the medication; and
 - 9) documentation of a shift count done by authorized direct care staff. Any discrepancies shall be reported to the nurse-trainer for review and action in accordance with written policy.

Section 116.80 Storage and Disposal of Medications

EMERGENCY

- a) All drugs shall be stored in locked compartments within the locked medicine container, cabinet or closet.
- b) Access to medications shall be limited to licensed and authorized direct care staff. Each program shall maintain an up-to-date list of authorized direct care staff on its premises.
- c) Each program shall have a written procedure for safeguarding medications kept in an individual's room or possession and shall require medications to be stored when individual safety cannot otherwise be assured.
- d) All medications shall be stored in their original containers.

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e) All medications which are given to individuals at the discretion of the physician, registered professional nurse, advanced practice nurse, pharmacist, physician assistant, dentist, podiatrist, or certified optometrist shall have a label with the same information as would appear on a pharmacy label in accordance with Section 22 of the Illinois Pharmacy Practice Act [225 ILCS 85] to show:

- 1) the name and address of the pharmacy wherein the same is sold or dispensed;
 - 2) the name or initial of the person authorized to practice pharmacy;
 - 3) the date on which such prescription was filled;
 - 4) the name of the patient;
 - 5) the serial number of such prescription as filed in the prescription files;
 - 6) the last name of the practitioner who prescribed such prescriptions;
 - 7) the directions for use thereof as contained in such prescriptions; and
 - 8) the proprietary name or names or the established name of the drugs, the dosage, and the quantity.
- f) Disposal of all medications shall be in accordance with federal and State laws.

Section 116.90 Individual Health Supports and Assessment**EMERGENCY**

- a) The registered professional nurse shall assess an individual's health status at least annually or more frequently at the discretion of the registered professional nurse.
- b) A physician shall assess an individual's health status at least annually or more frequently at the discretion of the physician or at the request of the agency or the registered professional nurse.

Section 116.100 Quality Assurance**EMERGENCY**

- a) A registered professional nurse, advanced practice nurse, licensed practical nurse, pharmacist or physician shall review the following for all individuals:
 - 1) medication orders;
 - 2) medication labels and medications listed on the medication administration record to ensure that they match physician orders; and
 - 3) medication administration records (for persons who are not self-medicating) to ensure that they are completed appropriately for:
 - A) medication administered as prescribed;
 - B) refusal by the individual; and

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- c) full signatures provided for all initials used.
- b) Reviews shall occur at least quarterly, but may be done more frequently at the discretion of the registered professional nurse and/or advanced practice nurse.
- c) A quality assurance review of medication errors for the purpose of monitoring and recommending corrective action shall be conducted within seven days of occurrence and included in the annual review.
- d) Documentation of the review and the review date shall be retained for at least five years.
- e) All quality assurance records shall be confidential and may only be disclosed in accordance with the provisions of Part 21 of Article VIII of the Code of Civil Procedure [735 ILCS 5/8-2101 through 8-2105].
- f) Nothing in this Part shall limit or restrict the reporting of medication errors as possible abuse or neglect or the investigation by the Office of Inspector General of possible abuse or neglect in accordance with the Department's rules on Office of Inspector General Investigations of Alleged Abuse or Neglect and Deaths in State-Operated and Community Agency Facilities (59 Ill. Adm. Code 50).

Section 116.110 Administrative Requirements**EMERGENCY**

- a) Written policies and procedures shall be developed by each agency that include:
 - 1) provisions for on-going supervision and monitoring of authorized direct care staff.
 - 2) provisions for annual review and any necessary retraining of authorized direct care staff in theory and practice of medication administration.
 - 3) provisions for a systematic review of all medication errors, adverse drug reactions, and incidents to identify contributing factors and plan corrective action.
 - 4) provisions for recording and reporting of all instances of retraining and retesting for failure to qualify as an authorized direct care staff.
- b) Each program shall have written policies and procedures to include the governing of:
 - 1) distribution of medications, including controlled substances, and persons authorized to distribute medications;
 - 2) administration of medications;
 - 3) quality assurance medication review;
 - 4) storage and safekeeping of medications;
 - 5) disposal of medications, including controlled substances; and
 - 6) training, review and any necessary retraining of authorized direct care staff.
- c) Policies and procedures shall be consistent with applicable rules, regulations, and federal and State law.
- d) Each program shall have a copy of all policies and procedures related

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY RULES

to medication on file and readily available to all programs at all times.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of September 14, 1999 through September 20, 1999 and have been scheduled for review by the Committee at its October 19, 1999 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
10/28/99	Office of Banks and Real Estate, Residential Mortgage License Act of 1987 (38 Ill Adm Code 1050)	7/30/99 23 Ill Reg 8555	10/19/99
10/28/99	Office of Banks and Real Estate, Savings Bank Act (38 Ill Adm Code 1075)	7/30/99 23 Ill Reg 8564	10/19/99
10/28/99	Office of Banks and Real Estate, Illinois Savings and Loan Act of 1985 (38 Ill Adm Code 1000)	7/30/99 23 Ill Reg 8544	10/19/99
10/28/99	Department of Corrections, Correctional Industries (20 Ill Adm Code 117)	4/16/99 23 Ill Reg 4339	10/19/99
10/29/99	Department of Central Management Services, Pay Plan (80 Ill Adm Code 310)	7/16/99 23 Ill Reg 7820	10/19/99
10/30/99	State Universities Retirement System, Universities Retirement (80 Ill Adm Code 1600)	7/23/99 23 Ill Reg 8348	10/19/99
10/31/99	Department of Financial Institutions, Illinois Credit Union Act (38 Ill Adm Code 190)	7/9/99 23 Ill Reg 7699	10/19/99

Rules acted upon during the calendar quarter from Issue 30 through Issue 42 are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 Ill. Adm. Code 2500 published in Issue 1 will be listed as 50-2500-1. The letter "R" designates a rule that is being repealed. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or jnaale@cgstate.sos.state.il.us (Internet address).

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